

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 22-10964-mg

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5 In the Matter of:

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7 CELSIUS NETWORK LLC,

8 Debtor.

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1 United States Bankruptcy Court
2 One Bowling Green
3 New York, NY 10004
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5 December 8, 2022
6 9:00 AM
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21 B E F O R E :

22 HON MARTIN GLENN

23 U.S. BANKRUPTCY JUDGE

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25 ECRO: FRANCES F.

1 HEARING re Hearing Using Zoom for Government RE: Debtors
2 Motion Seeking Entry of an Order (I) Setting A Briefing
3 Schedule and (II) Granting Related Relief. (Doc# 1338, 1524,
4 1554, 1592, 1619, 1631)

5
6 HEARING re Hearing Using Zoom for Government RE: Debtors'
7 Motion for Entry of an Order (I) Applying Certain Orders in
8 the Initial Debtors' Chapter 11 Cases to GK8 Ltd., GK8 USA
9 LLC, and GK8 UK Limited and (II) Granting Related Relief
10 filed by Joshua Sussberg on behalf of Celsius Network LLC.
11 (Doc # 1626)

12
13 HEARING re Hearing Using Zoom for Government RE: Approving
14 Sale of Certain of the Debtors Assets. (Doc## 687, 715,
15 727, 748, 876, 878, 910, 956, 188, 192, 357, 409, 430, 445,
16 626, 1060, 1299, 1323, 1413, 1440, 1455, 1460, 1461, 1480,
17 1522, 1524, 1548, 1549, 1586, 1617, 1615, 1620, 1621, 1622)

18
19 HEARING re Hearing Using Zoom for Government RE: Debtors'
20 Motion (I) Authorizing the GK8 Debtors to (A) Continue to
21 Operate the GK8 Cash Management System, (B) Honor Certain
22 Prepetition Obligations Related Thereto, (C) Maintain
23 Existing GK8 Business Forms, and (D) Continue to Perform GK8
24 Intercompany Transactions, (II) Granting Superpriority
25 Administrative Expense Status to Postpetition GK8

1 Intercompany Balances, and (III) Granting Related Relief.
2 (Doc# 1627)

3
4 HEARING re Hearing Using Zoom for Government RE: Debtors'
5 Motion for Entry of an Order (I) Authorizing Christopher
6 Ferraro to Act as Foreign Representative and (II) Granting
7 Related Relief. (Doc# 1628, 1629)

8
9 HEARING re Hearing Using Zoom for Government RE: Debtor's
10 Motion for Entry of an Order (I) Authorizing the Debtors to
11 Pay Certain Decentralized Finance Loans and (II) Granting
12 Related Relief. (Doc# 1360, 1383, 1524)

13
14 HEARING re Hearing Using Zoom for Government RE: Debtors'
15 Motion for an expedited hearing (ECF Doc. 1622)

16
17 HEARING re Hearing Using Zoom for Government RE: Debtors'
18 Amended Motion Seeking Entry of an Order (I) Directing
19 Joint Administration of the Chapter 11 Cases and (II)
20 Granting Related Relief. (Doc # 1632)

21
22 HEARING re Hearing Using Zoom for Government RE: Motion to
23 Authorize/Notice of Filing of Proposed order. (ECF 1615)
24 Hearing Using Zoom for Government RE: Debtors' Supplemental
25 Motion Seeking Entry of (I) An Order (A) Approving Bidding

1 Procedures for the Potential Sale of Certain of the Debtors
2 Assets, (B) Scheduling Certain Dates with Respect Thereto,
3 (C) Approving the Form and Manner of Notice Thereof, (D)
4 Approving Bid Protections, (E) Approving Contract Assumption
5 and Assignment Procedures, (II) an Order Authorizing the
6 Debtors to Enter Into a Definitive Purchase Agreement, and
7 (III) Granting Related Relief. (Doc# 1620 to 1622)

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25 Transcribed by: Sonya Ledanski Hyde

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11 ALSO PRESENT:

12 CHRISTOPHER FERRARO, Acting CEO of Celsius

13 STEVEN WALD, Galaxy

14 RYAN KIELTY, Centerview Partners

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1 P R O C E E D I N G S

2 CLERK: All right, starting the recording for
3 December 8th, 2022 at 9:00 a.m. Calling Celsius Networks
4 Limited, Case Number 22-10964.

5 All right, admitting the participants. Is anyone
6 from Kirkland available? If you could please unmute and
7 start giving your appearances.

8 MR. KOENIG: Good morning, Deanna. This is Chris
9 Koenig from Kirkland for Celsius. Can you hear us okay?

10 CLERK: Yes, I can. Can you hear me?

11 MR. KOENIG: Yes, thank you. We're here. Good
12 morning.

13 CLERK: Good morning. If I could just have the
14 list of participants that will be speaking this morning.

15 MR. KOENIG: Sure. It's Pat Nash, Dan Latona,
16 Chris Koenig, and Simon Briefel.

17 CLERK: Okay, thank you.

18 MR. KOENIG: Thank you.

19 CLERK: All right. Do we have counsel from White
20 & Case yet that are speaking this morning? I see we
21 admitted the conference room.

22 Good morning, Mr. Lazar. Are you speaking this
23 morning?

24 MR. LAZAR: Good morning, Deanna. Vincent Lazar,
25 Jenner & Block, on behalf of the examiner. I'll only be

1 speaking if the judge has questions.

2 CLERK: Okay, thank you. All right. Is there any
3 other counsel that has joined that will be speaking on the
4 record and has not given their appearance yet? If you could
5 just raise your hand one at a time and I'll take your
6 appearances. All right. Is there anyone else that will be
7 speaking on the record this morning who has not given an
8 appearance yet?

9 MR. D'AVERSA: Good morning, Deanna. I raised my
10 hand. I don't know if you saw that.

11 CLERK: I see it now, yes. Good morning.

12 MR. D'AVERSA: Raniero D'Aversa from Orrick,
13 Herrington & Sutcliffe for Galaxy Digital Trading.

14 CLERK: Okay, thank you so much. All right.
15 Shara?

16 MS. CORNELL: Hey, Deanna.

17 CLERK: Good morning. Are you speaking on the
18 record this morning, or is Mar, going to?

19 MS. CORNELL: I'll be speaking on the record. Let
20 me see if I can get my -- Shara Cornell on behalf of the
21 Office of the United States Trustee.

22 CLERK: Okay, thank you.

23 MS. CORNELL: I may need to sign back in, Deanna.
24 Just to...

25 CLERK: That's fine. No problem.

1 MS. CORNELL: Thank you.

2 CLERK: All right. Bryan Kotliar, are you there?

3 MR. KOTLIAR: Yes, speaking.

4 CLERK: Good morning. If you could just give your
5 appearance for the record, please.

6 MR. KOTLIAR: Sure. Bryan Kotliar of Togut, Segal
7 & Segal on behalf of the Ad Hoc Group of Custodial
8 Accountholder.

9 CLERK: Okay, thank you. And is Kyle Ortiz also
10 going to be speaking this morning, or joining?

11 MR. KOTLIAR: He is unlikely to join. I'm also
12 unlikely to speak.

13 CLERK: Okay, thank you.

14 MR. KOTLIAR: Thank you.

15 MR. MCCARRICK: You've also got T.J. McCarrick
16 from Kirkland.

17 CLERK: Okay, thank you, T.J.

18 All right. Is there anyone from White & Case on
19 the line that will be speaking on the record this morning?

20 I know we have the conference room has been admitted.

21 Again, anyone from White & Case that will be speaking on
22 the record this morning? All right.

23 Are there any other participants that have joined
24 that will be speaking on the record this morning? You can
25 raise your hands one at a time and I'll take your

1 appearance.

2 Yes, Christopher Ferraro.

3 MR. FERRARO: Hello, yes. I might be speaking
4 today.

5 CLERK: Okay. Just please give your appearance.

6 MR. FERRARO: Sorry. How do I do that?

7 CLERK: Okay, just state your name and just say
8 how you're involved in the case, like who you represent or
9 if you're a creditor.

10 MR. FERRARO: Sorry. Okay. Christopher Ferraro,
11 Acting CEO, Chief Restructuring Officer and CFO of Celsius,
12 the Debtors.

13 CLERK: Thank you. All right. For the parties
14 that have joined, is there anyone that is going to be
15 speaking on the record this morning? Again, for the parties
16 that have joined, is there anyone that's going to be
17 speaking on the record this morning that has not given their
18 appearance yet? Please raise your hands and give your
19 appearance one at a time.

20 Yes, Mr. LeBlanc.

21 MR. LEBLANC: Good morning. Andrew LeBlanc of
22 Milbank on behalf of certain Series B preferred
23 shareholders. I'll be joined by my partner, Dennis Dunne.
24 And I will be speaking.

25 CLERK: Okay, thank you.

1 MR. LEBLANC: Thank you.

2 CLERK: Andrew Zatz.

3 MR. ZATZ: Yes. Good morning. Andrew Zatz with
4 White & Case on behalf of the Committee. And I'll have the
5 speaking role today.

6 CLERK: Okay. Thank you, Andrew.

7 Is anyone else going to be speaking on behalf of
8 the Committee this morning, or is it just yourselves?

9 MR. ZATZ: I believe Greg Pesce will also be
10 speaking. And if he's on now, he might know if anyone else
11 is. But I think he is still logging in at the moment.

12 CLERK: Okay, thank you. All right, for the
13 parties that have joined, is anyone going to be speaking on
14 the record this morning? If you could just raise your hand.
15 I'll take your appearance one at a time.

16 Yes, Mr. Turetzky.

17 MR. TURETSKY: Good morning. David Turetzky of
18 White & Case for the Unsecured Creditor's Committee. I
19 don't anticipate that I will be speaking this morning, but I
20 do want to flag Mr. Pesce will be -- my partner will be
21 joining momentarily. I think he got booted off the Zoom.
22 So he asked that we let you know that he'll be joining
23 shortly.

24 CLERK: All right, thank you.

25 All right, again, for the parties that have

1 joined, if you are speaking on the record this morning,
2 please raise your hand and I will take your appearance one
3 at a time. Again, for the parties that have joined, if you
4 are speaking on the record this morning and you have not
5 given your appearance yet, please raise your hand. I will
6 take your appearances one at a time. Mr. Adler?

7 MR. ADLER: Hi, Deanna. It's David Adler from
8 McCarter & English on behalf of the Ad Hoc Group of
9 borrowers as Celsius. I don't think I'm going to be saying
10 anything today, but I just wanted to note my appearance for
11 the record.

12 CLERK: All right, thank you.

13 MR. ADLER: You're welcome.

14 CLERK: Mark Bruh, are you speaking this morning?
15 I know Shara is.

16 MR. BRUH: Yeah. I'll just note my appearance for
17 the record. Mark Bruh for the United States Trustee.

18 CLERK: Thank you.

19 All right. Good morning, Gregory. If you could
20 unmute and give your appearance for the record, please.

21 MR. PESCE: Sure. Good morning. Gregory Pesce,
22 White & Case, on behalf of the Official Creditors'
23 Committee. And I saw my partner, Andrew Zatz, was also on.
24 And Mr. Zatz and myself are the primary speakers today.

25 CLERK: Okay, thank you. Yes, he has noted his

1 appearance already. Thank you so much.

2 MR. PESCE: Thank you.

3 CLERK: All right. Are there any additional
4 parties that have joined that are speaking on the record
5 this morning? If you could -- and have not given their
6 appearance yet, if you could just unmute one at a time,
7 raise your hands, and I will take your appearance.

8 All right. Again, for the parties that have
9 joined, if anyone is speaking on the record this morning,
10 please raise your hands one at a time and I will ask you to
11 unmute your line and I will take your appearance.

12 CLERK: Hi, Judge. Can you hear me?

13 THE COURT: I can, Deanna.

14 CLERK: Okay, great.

15 Okay, again, good morning. For the parties that
16 have joined, if you're going to be speaking on the record
17 this morning and have not given your appearance yet, please
18 raise your hands and I will ask you to unmute and take your
19 appearance.

20 Yes, Josh Mester.

21 MR. MESTER: Good morning. I don't expect to
22 speak, but I would like to make an appearance. Josh Mester,
23 Jones Day, on behalf of CDP Investments.

24 CLERK: Thank you. Shoba?

25 MS. PILLAY: Good morning. Likewise. Not likely

1 to speak unless the Court has questions for me but want to
2 make an appearance. Shoba Pillay from Jenner & Block as the
3 examiner.

4 CLERK: Thank you.

5 MS. PILLAY: Thank you.

6 CLERK: Okay. For the parties that have joined,
7 if anyone is going to be speaking on the record this morning
8 and you have not given your appearance, please raise your
9 hands one at a time and I will take your appearance.

10 Yes, Steven Wald.

11 MR. WALD: Yeah. Not expecting to specifically
12 say anything, but in case the Judge has questions, on behalf
13 of Galaxy Digital.

14 CLERK: Thank you. Yes, Ryan Kielty. Is that
15 correct?

16 MR. KIELTY: Hi, yes. This is Ryan Kielty from
17 Centerview Partners, investment banker to the Debtors. I am
18 a declarant in the GK8 sale motion.

19 CLERK: Thank you. Again, for the parties that
20 have joined, if anyone is speaking on the record this
21 morning and has not given their appearance, please raise
22 your hands one at a time and I will take your appearance.

23 All right, are we waiting on anyone or can we
24 begin?

25 THE COURT: We're going to begin, Deanna.

1 CLERK: Okay. Thanks, Judge.

2 THE COURT: All right. Good morning, everybody.

3 This is Judge Glenn. We are here on the record in Celsius
4 Network LLC, 22-10964. An amended agenda for today's
5 hearing was filed. Let's go forward with the order of the
6 agenda. The first contested matter on the agenda is the
7 motion to set a briefing schedule with respect to which
8 debtor or debtors the accountholders have claims against.

9 Who is going to argue for the Debtor first?

10 MR. NASH: Good morning, Your Honor. Pat Nash
11 from Kirkland & Ellis for the Debtors.

12 THE COURT: Good morning, Mr. Nash.

13 MR. NASH: So, Judge, it's our motion. Consistent
14 with the theme of the week, a number of from our perspective
15 gating issues that to the extent that we can get a ruling
16 from Your Honor, it's going to clearly be helpful in
17 connection with the plan process.

18 Similar, Judge, to how we handled the custody and
19 withhold issues, it is the view to the extent that we enter
20 a briefing schedule, or if we don't enter a briefing
21 schedule at some point, you know, in a plan or the
22 pleadings, it's the Debtor's view that the terms of use
23 unambiguously provide that the customers have claims not
24 only at Celsius Network LLC, but also Celsius Network LLC's
25 affiliates. We know that the preferred equity holders have

1 a different point of view. We know that the Official
2 Committee of Unsecured Creditors shares the Debtor's view.

3 I think, Your Honor, from our perspective, it's
4 going to be challenging to put a plan together without
5 having guidance on this issue. We are reticent, hesitant to
6 solicit a plan that, for example, adopts the Debtor's point
7 of view only to find out at a confirmation hearing, whenever
8 that is, sometime in early 2023, maybe call it April,
9 possibly May. If we can do it sooner, great. But if we get
10 to a confirmation hearing and Your Honor has a different
11 point of view with respect to where the customers have
12 claims and we have to then start over, that's something that
13 from the Debtor's perspective we would like to avoid.

14 Our friends for the Committee, they are focused of
15 course, as we all are, on the need for speed and, you know,
16 do we have the time to put this issue in front of Your Honor
17 in advance of filing a plan. We suggested a schedule. Of
18 course whatever schedule would work for the Court and would
19 work for the parties at the end of the day would work for
20 the Debtors. But our friends at the Committee said, you
21 know, why can't we just do all this at confirmation.
22 Obviously Your Honor has dealt with plenty of complicated
23 issues at confirmation. And from the Committee's
24 perspective, we don't have the luxury to wait. Right? Or
25 we don't have the luxury to necessarily engage in a briefing

1 schedule, why can't we just handle it all at confirmation.

2 And --

3 THE COURT: Mr. Nash, let me ask you to do this if
4 you would. Without going into great depth, could you just
5 outline the arguments that you anticipate being made by the
6 respective parties as to which debtors the accountholders
7 have claims against?

8 MR. NASH: I can, Your Honor.

9 THE COURT: Yeah. That would be helpful to me.

10 MR. NASH: So the terms of use -- pursuant to the
11 terms of use, the terms of use provide that when our
12 depositors put coin on the platform, they are contracting
13 with Celsius Network LLC and its Affiliates, capital A. So
14 Celsius Network LLC and its Affiliates, then defined as
15 Celsius, and Affiliates is a defined term in the terms of
16 use. And the definition of Affiliates in the terms of use
17 is clearly broad enough to pick up all of the Debtors of GK8
18 and the various affiliates. And you'll hear from either --
19 you'll hear from counsel to the preferred equity holders.
20 They have a different read of the document.

21 From my perspective, Judge, it appears that I
22 would imagine that at this point you've probably memorized
23 the terms of use. I know you've read it more than once. I
24 don't think it requires time. I mean, we could get a brief
25 on very quickly. I'm sure the preferred equity holders

1 could get a brief in front of Your Honor pretty quickly.
2 And to the extent that we're right and Your Honor rules that
3 pursuant to the terms of use -- which, after all, are the
4 Debtor's north star in these cases -- and we are of course
5 asking Your Honor to read the terms of use very literally as
6 it relates to our retail depositors, and we will be asking
7 Your Honor to read the terms of use very literally as it
8 relates to our sophisticated preferred equity holders. Your
9 Honor will rule the way you rule. If you do rule in our
10 favor, it will streamline and make our job easier in terms
11 of putting a plan on file.

12 THE COURT: Let me ask another question, Mr. Nash.
13 Are there any contracts other than the terms of use that you
14 understand that any of the parties rely upon in supporting
15 their argument? So are there any guarantees or indemnities
16 provided by affiliates, anything? This is essentially in
17 your view an issue controlled by the terms of use.

18 MR. NASH: Yes, Judge.

19 THE COURT: Okay. And with respect to this issue,
20 I think we've all seen that we're on version eight of the
21 terms of use. Has the language varied in versions one
22 through eight with respect to this issue?

23 MR. NASH: It hasn't, Judge. And most
24 importantly, when the investment was made, I don't know what
25 version we were on, but we were in the middle -- I should,

1 Your Honor, before I get up to the podium today. But we
2 were in the middle of versions one through eight if I'm
3 remembering correctly. But the language hasn't changed.

4 THE COURT: Okay. All right. Let me briefly hear
5 from counsel for the preferred equity holders with respect
6 to this. And I know -- look, I've read the papers. I know
7 that you've had -- you and your colleagues have had very
8 extensive discussions with counsel for the preferred equity
9 holders about how this issue would be teed up. I've read
10 the Committee's objection. I understand that. But let me -
11 - and I'll hear from the Committee's counsel as well. But
12 let me briefly hear from the preferred equity's counsel.
13 Who wants to be heard?

14 MR. LEBLANC: Your Honor, it's Andrew LeBlanc of
15 Milbank on behalf of the preferred equity holders. Your
16 Honor, can you hear me okay?

17 THE COURT: Yes, I can.

18 MR. LEBLANC: Thank you, Your Honor. Your Honor,
19 this topic, the topic of this briefing schedule came up at
20 the November 15th hearing when we were talking about our
21 1009 motion. And we mentioned at that time that this was
22 part of a coordinated agreement that we had reached with the
23 Debtors both to deal with the schedules as it related to
24 dollarization and then also to deal with the bar date motion
25 to make sure that everybody had notice that this was going

1 out and that a schedule was being proposed. And then
2 thirdly, the proposal of the schedule itself. We think it's
3 critical that this issue be resolved.

4 THE COURT: Mr. LeBlanc, I understand all that.
5 Just give me a little preface of your argument as to why
6 it's not -- they don't have claims against each debtor.

7 MR. LEBLANC: Sure. Your Honor, we agree -- the
8 terms of use we do think are the governing document here.
9 We think it's unambiguous in our favor. There are
10 limitations on liability provisions stated in the document
11 that exclude claims against affiliates. And that's
12 consistent, Your Honor. I think we all know that's
13 consistent with the idea of the novation or the migration of
14 the accounts between -- from the U.K. entity down to the
15 Delaware entity, when that occurred and the revision of the
16 terms of use. And, Your Honor, I know you talked about this
17 this week with parties about the very clear indication that
18 that was what was being done with that sixth revision to the
19 terms of use that people had to -- that was expressly told
20 to them that that was what was occurring. We think the
21 terms of use are clear in that respect.

22 THE COURT: May I ask you this? Which version of
23 the terms of use were in force at the time of the
24 investment?

25 MR. LEBLANC: Your Honor, I believe it was number

1 six.

2 THE COURT: Okay.

3 MR. NASH: I believe that's right, Judge.

4 MR. LEBLANC: Right. And to be clear, the
5 investment was only made after -- it was made into the U.K.
6 entity only after the customer accounts became a Delaware
7 entity issue. So once the customer accounts became a
8 Delaware counterparty, then the investment was made into the
9 U.K. entity. And that's what's critical here. We also
10 think it's entirely consistent -- and I won't go into this,
11 Your Honor, but there's reams of other evidence that we've
12 already put before the court in connection with the Equity
13 Committee Motion that are entirely consistent with this.
14 The SEC filings --

15 THE COURT: Let me ask another question and I'll
16 give Mr. Nash and certainly I'll give the Creditors'
17 Committee an opportunity as well. Is it your view that this
18 is a pure contract interpretation issue on the plain meaning
19 of the contract term, or is extrinsic evidence required
20 before the Court can decide this?

21 MR. LEBLANC: Your Honor, we believe --

22 MR. NASH: Your Honor -- oh, I'm sorry. I thought
23 that was --

24 THE COURT: Hold on. Mr. LeBlanc has the floor.
25 Hold on.

1 MR. NASH: Apologies, Andy.

2 MR. LEBLANC: Sure. Thank you, Your Honor. Your
3 Honor, we believe -- and I think Your Honor alluded to this
4 yesterday -- we believe it is unambiguous in our favor. The
5 Debtors obviously have stated they believe it's unambiguous
6 in their favor.

7 THE COURT: How many times have I heard that over
8 the years? Everybody thinks it's unambiguous, but they
9 completely disagree about what it means.

10 MR. LEBLANC: Right. And one might question
11 whether that's the very definition of the ambiguity.

12 THE COURT: It's not.

13 MR. LEBLANC: We think to the extent that there's
14 ambiguity, Your Honor -- and Your Honor will obviously have
15 to decide if those two strongly held views are reasonable,
16 and that then creates ambiguity. In which case Your Honor
17 would then have to look at other evidence which we think is
18 overwhelming. But we think it's unambiguous, Your Honor, in
19 our favor. We will argue to Your Honor that it is
20 unambiguous in our favor.

21 THE COURT: And, Mr. Nash, your view as to whether
22 it's unambiguous?

23 MR. NASH: Our view is that it's unambiguous in
24 our favor. If Your Honor rules in either of our favor on
25 that issue, we don't need to get into parol evidence. If

1 Your Honor rules that it is ambiguous, then there will be
2 parol evidence.

3 THE COURT: All right.

4 MR. NASH: But in our view, Judge, that would have
5 to come later.

6 THE COURT: I'll come back to that issue. Because
7 doing it seriatim like that is not going to -- may not -- if
8 the Court concludes that it's not resolved by the clear
9 terms of the agreement and that extrinsic evidence is not
10 permissible for purposes of interpreting it, it would be
11 fairly quick. But if I concluded it is ambiguous and
12 extrinsic evidence is needed, I'm reluctant to get, okay,
13 then how much time is everybody going to want to put in
14 evidence, et cetera.

15 But let me hear from the Committee's counsel.

16 MR. PESCE: Thank you, Your Honor. For the
17 record, Gregory Pesce, White & Case, on behalf of the
18 Official Creditors' Committee. Let me make a couple quick
19 points here.

20 As we mentioned earlier in the week, fundamentally
21 we just want to move these cases forward. And in
22 particular, we don't want to delay the proposing or the
23 filing of a plan for this issue. There's been a lot of
24 gating issues that have been presented. We've tried to move
25 those forward as quickly as possible. But at some point you

1 have to just let the process work as it typically works and
2 file a plan, let people object to claims, let people object
3 to confirmation.

4 Second and more profoundly, even if you were to
5 order briefing on the so-called brief legal issue, this
6 isn't going to resolve the issue with the preferred equity.
7 And even if you were to order briefing and were to make a
8 ruling on that particular issue as it's been framed, it's
9 just going to defer the day of reckoning because they will
10 be -- either the Committee, the Debtor, or the preferred
11 equity holders will be dissatisfied with that answer. And
12 that's important because we disagree that the terms of use
13 are going to be dispositive on this issue. And let me state
14 why.

15 We agree with Mr. Nash that the terms of use are
16 unambiguous and provide that the customers have claims at
17 every entity. That said, even if that were not the case,
18 there are other issues that need to be resolved to fully
19 adjudicate where the preferred equity sit in the case. And
20 we highlighted those in the motion or in the objection.

21 First, there is another contract. As part of the
22 preferred equity holders' investment, there was effectively
23 an intercompany loan between Celsius Network Limited, the
24 topco entity, and Celsius Network LLC where assets were kept
25 at the CNL, the top entity, but the liabilities were

1 effectively passed down. That loan at the time that it was
2 documented was \$9 billion. The price of crypto has
3 fluctuated. You know, we understand that the Debtor is
4 looking at possibly reconciling that to a lower amount. But
5 one way or the other, it's going to be billions of dollars
6 that is owed to the CNL -- I'm sorry, owed to the customer
7 entity.

8 Second, the preferred equity want to have the
9 value of the mining business such as it is. The customer
10 business had a revolver with the mining business that lent
11 it customer money effectively to fund that business. So
12 those two documents. And even if you get past the terms of
13 use, the intercompany loan, the intercompany revolver, we
14 have significant questions about whether substantive
15 consolidation or potential fraudulent transfers related to
16 the dropdown might be relevant.

17 So long story short, even if you deal with the
18 briefing issue, whoever loses there -- and it could be me,
19 it could be the Debtor, it could be preferred equity, these
20 issues are all going to be before the Court as part of the
21 confirmation hearing.

22 THE COURT: If I understand the Committee's
23 arguments, you don't disagree that in the first instance,
24 the terms of use are controlling as to whether the
25 accountholders have claims against all of the Debtors or

1 some -- or one or a few. You don't disagree about that.

2 MR. PESCE: No, we agree with that. That's
3 correct.

4 THE COURT: And so what you're telling me I think
5 as I understand it is that the intercompany loan, potential
6 substantive consolidation arguments, all of that, even if
7 the Court were to conclude that the claims lie only against
8 one or a fewer number of the Debtors, there would be these
9 non-contract issues that would have to be -- that may have
10 to (indiscernible) if they couldn't be resolved in plan
11 negotiations.

12 MR. PESCE: That's correct.

13 THE COURT: Okay.

14 MR. PESCE: But I think just to -- I think
15 fundamentally though our key concern is this. We don't
16 disagree that this is an important issue. We don't disagree
17 that it has to be resolved. Our big concern though is
18 having this be a gating item to just really filing a plan.
19 And our preference is to have this issue resolved later
20 closer -- as part of or closer to confirmation so that we
21 can at least get the ball moving and get something on file
22 early in the year so that we can start moving towards
23 confirmation before the company starts running tight on
24 liquidity, which we heard earlier in the week is -- March in
25 particular looks like it's going to be challenging absent

1 further liquidation of customer assets.

2 THE COURT: All right. Let me ask -- first turn
3 to Mr. Nash. Well, I'll first tell all three of you. I am
4 not going to do this with the potential of doing it
5 seriatim. You know, I've had many cases over the years, and
6 as a lawyer before I came a judge, where people had
7 competing arguments that the plain language of a contract
8 (indiscernible) their view and extrinsic evidence is not
9 admissible. And then a court decides that, no, it's
10 ambiguous and we need extrinsic evidence. So we're not
11 going to resolve this gating issue if I have to do it in
12 parts. Because if months from now I conclude that it's
13 ambiguous and then you tell me, well, this is the discovery
14 we need, et cetera, it's going to be months further before
15 the issue can be resolved.

16 So first, Mr. Nash, if the Court -- what's the
17 potential extrinsic evidence that you would offer?

18 MR. NASH: I believe it is primarily Mr. LeBlanc
19 and the preferred equity holders who would be introducing
20 extrinsic evidence, Your Honor, more so than the Debtors.

21 THE COURT: Okay. So, Mr. LeBlanc, what's the
22 extrinsic evidence that you would be seeking to introduce if
23 the Court concluded it was ambiguous?

24 MR. LEBLANC: Your Honor, we think -- and I'm glad
25 Your Honor asked this question. Because we think there's

1 extensive course of dealing evidence that is entirely
2 consistent with our view. So, for example, there are SEC
3 filings in connection with the mining entity that are
4 audited financial statements that reflect the absence of
5 customer claims at the mining entity, which is inconsistent
6 with the conclusion or the view that there were claims at
7 those entities. There is claims data in this case itself
8 that shows that prior to the scheduling of claims at every
9 entity -- I believe the number was 96 percent of all
10 customer claims were filed only at the Delaware entity, the
11 LLC entity and not anywhere else. That's the type of
12 evidence, Your Honor.

13 And frankly, it was always our intent in the way
14 that we negotiated this schedule with the Debtors, we had
15 originally proposed, Your Honor, a schedule that included a
16 round or a time for discovery after the opening briefs were
17 served. We ceded to the Debtor's request to do it in this
18 way, without discovery and discovery coming as a second
19 phase. But it was never our intent to only argue to the
20 Court that it was unambiguous. We were always going to
21 argue it was unambiguous. But if the Court concluded it was
22 ambiguous, we have already evidence of course of dealing
23 throughout the parties' interactions, monthly operating
24 reports that were filed with the Court that are inconsistent
25 with the view that there are claims at every entity, for

1 example. We were going to put all that before the Court --

2 THE COURT: Let me stop you. Tell me -- so far
3 what you've told me about is documentary evidence that you
4 would rely on to support an argument about course of
5 dealing. Your position is that would be extrinsic evidence
6 that would support your interpretation of the contract. Are
7 there depositions that you would want?

8 MR. LEBLANC: Your Honor, I think that would be
9 frankly -- I think we would be comfortable relying on the
10 documentary record that exists. But I'm sure other people
11 are going to want depositions because they're -- we're
12 unaware of any evidence that --

13 THE COURT: Well, I'm starting with you. Are
14 there depositions that you would want? You're telling me
15 no, that you're going to rely on documentary evidence
16 showing the course of dealing that you believe would support
17 your proposed contract interpretation.

18 MR. LEBLANC: That's what I'm telling Your Honor
19 only because I haven't seen what the arguments from anyone
20 on the other side is. If the Debtors obviously were to put
21 in a declaration from their general counsel saying that they
22 believe that there were claims at every entity, then of
23 course we would want to depose that person. We have not
24 seen -- we have not seen --

25 THE COURT: What you're telling me is if they put

1 in declarations, you want to be able to depose the
2 declarants.

3 MR. LEBLANC: Absolutely, Your Honor. Whatever
4 evidence -- I need to see what their arguments are. We have
5 not heard arguments from anyone on the other side as to why
6 beyond the use of the word affiliated in the definition,
7 beyond that in the terms of use, why there are claims
8 against every entity. I need to know what that is. I know
9 what evidence I would offer affirmatively based on what I
10 know today, but obviously I reserve the right to depose
11 people if they put in new evidence that we need to respond
12 to.

13 THE COURT: Mr. Nash, is there -- what extrinsic
14 evidence do you believe the Debtors would want to introduce
15 on this issue if the Court could not determine that it was
16 the unambiguous language that controlled and no extrinsic
17 evidence would be considered?

18 MR. NASH: It's hard for me to say standing here
19 right now, Your Honor. I think we would want to -- of
20 course if we're talking about parol evidence, the other
21 documents that we would be admitting into evidence, perhaps
22 we would require the depositions of certain of the preferred
23 equity holders about what they -- you know, the diligence
24 they did, what it is they understood.

25 I think if we get into parol evidence, Your Honor,

1 I don't know that we have the luxury of time to deal with
2 these issues, you know, short of confirmation or in advance
3 of confirmation, candidly. We may, but we may not.

4 THE COURT: Okay. Mr. Pesce, what is the -- if
5 the Court could not resolve the matter as a matter of the
6 unambiguous language of the contract, what if any extrinsic
7 evidence would you seek to introduce?

8 MR. PESCE: Sure. Just in terms of the contract
9 issue and not these other ancillary issues I mentioned?

10 THE COURT: Well, no. I want -- look, substantive
11 consolidation, those issues are going to have to get
12 resolved as part of confirmation in my view, and not
13 earlier. And what is it about the intercompany loan that --
14 is there language in the intercompany loan? Is there a loan
15 agreement, or is it -- how is that documented?

16 MR. PESCE: Yeah, sure. So a few points here. I
17 think in terms of where the customers are, I don't know
18 whether depositions are necessary, but there is definitely
19 documentary written evidence that customers were for a
20 period of time dealing with CNL, Celsius Network Limited
21 entity prior to these internal reorganizations. So we would
22 be presenting evidence to that effect and whoever would be
23 necessary to attest to that. So course of dealing in other
24 words where customers were dealing prior to these internal
25 reorganizations, that would definitely be one big piece.

1 Second, we would -- there are written loan
2 agreements. There's effectively two main loan arrangements.
3 One is a written intercompany revolver as it's called
4 between the LLC entity and the mining entity. We would
5 present that to provide evidence that even if the preferred
6 equity had a claim at CNL, to get the value of the mining
7 business, they would have to pay back this intercompany
8 revolver, which we think is a valid claim. And a related
9 point --

10 THE COURT: That's not really -- stop for a
11 second. I mean, that really doesn't go to where the account
12 holders have claims. That really goes to what's the value
13 of the entity against which the preferred holders are
14 claiming. I'm focusing on -- stop for a second. You know,
15 based on what I was reading from everybody's papers, it was
16 the -- you know, what Mr. Nash started with was the terms of
17 use. Is there anything in the intercompany loan agreement
18 that you think bears on this issue? What you're saying is
19 there is this intercompany liability that would have to be
20 satisfied before the preferred holders recover anything.

21 MR. PESCE: That's right. So turning back to --

22 THE COURT: That may well be true, but that's a
23 different kind of issue than the issue of contractually
24 where do the claims lie.

25 MR. PESCE: All right, fair enough. As to the

1 terms of use issue and where the customers sit, like I said,
2 I think there would be written and potentially deposition
3 evidence that we would need about the course of dealing of
4 customers dealing with other entities other than the CNL
5 entity that we would need to present. But again, we would
6 also need to see that the debtors present, probably want to
7 depose them. And if preferred equity holders had their own
8 witnesses, we would have to consider that.

9 THE COURT: Well, I would -- if the discovery --
10 if the depositions you're talking about are depositions of
11 the declarants, that's all well and good. That's fine.
12 Okay. I can't imagine that anybody is going to put in more
13 than one or two declarations. And so, you know, if each of
14 you wind up putting in one or two declarants, we're talking
15 about six depositions. We're not talking about months of
16 discovery.

17 Look, my reaction is that on the legal -- on the
18 issue of against which entity do the account holders have
19 claims, I agree that it is really a gating issue and it
20 should be decided sooner rather than later. I agree with
21 that. Where I parted company with Mr. Nash and Mr. LeBlanc
22 was somehow doing this seriatim -- okay, Judge, you -- we'll
23 do the briefing and then you'll decide, is it clear and
24 unambiguous. You know, each side argues diametrically
25 opposed positions based on the terms of use. And if I don't

1 decide it, then you start putting together your evidence on
2 the custom and practice or whatever as it bears on it.

3 So I will tell you I want to go -- I will go
4 forward on relatively expedited basis to resolve this issue,
5 but I want as part of the filings the evidence that each of
6 you would rely on, the extrinsic evidence that each of you
7 would rely on in the event the Court concludes that the
8 contract terms are ambiguous and it can't be resolved solely
9 from the contract terms.

10 I mean, there's lots of decisions I read where the
11 Court has a full record and (indiscernible) says the
12 contract terms are clear and unambiguous and the rule is X.
13 But even if I consider the extrinsic evidence, I would reach
14 the same result. Okay. I don't want this being prolonged.
15 I think this is an important issue. I think it's different,
16 Mr. Pesce, from the issue of, for example, is there billions
17 of dollars of an intercompany loan that would have to be
18 satisfied before the preferred holders can recover or issues
19 of substantive consolidation, which are truly rare indeed
20 when a court rules that substantive -- other than -- you
21 know, I don't think I've had a case where complete
22 substantive consolidation has occurred. I've had plans of
23 multiple -- you know, where there are many debtors and as
24 part of a plan, the parties agree four of the debtors can be
25 substantively consolidated because the claims against each

1 really are the same. But it's just -- I mean, the law,
2 whether you look at the Second Circuit or you look at the
3 Third Circuit, where I think it's a little clearer at this
4 point, is such a hard standard to satisfy. I'm not saying
5 it can't be, but it's a tough one if that's your argument.

6 Whether the intercompany loan requires that that
7 loan be satisfied before the preferred can recover anything,
8 that's a different issue. And if you can't resolve as part
9 of a plan, well, that will be plan confirmation.

10 But on this issue of against which entities do the
11 accountholders have claims, I am prepared to do it. So the
12 three of you need to go back and work out a new schedule. I
13 agree completely, Mr. Pesce, and I've said it so many times
14 in this case, we need to move this forward. And I don't --
15 you know, the discovery that each of you has talked about --
16 you know, SEC filings, they're going to be admissible,
17 right? And the Court is going to take judicial notice of
18 them. You're all going to stipulate to that. So stipulate
19 to as many facts as you can. And I just don't want -- I
20 don't want this to become a six-month or a nine-month issue
21 because you take the first three months briefing and then
22 the Court deciding and then I can't decide it purely on the
23 unambiguous language and then you're going to go off and
24 say, well, now we've got to gather evidence. So I want the
25 extrinsic evidence that each of you wishes to rely on. And

1 to the extent the schedule ought to include dates when you
2 will provide declarations in support of your position, when
3 the declarants will be made available for cross-examination,
4 when we set the hearing, we probably will set it as an
5 evidentiary hearing and I'll probably -- I'll listen to this
6 extrinsic evidence and may ultimately decide, nope, it's
7 just the plain language of the contract. That's what we're
8 going to do. Okay?

9 MR. PESCE: Yes, Judge.

10 MR. LEBLANC: Your Honor, if I might, just one
11 piece of clarification real quick.

12 THE COURT: Go ahead.

13 MR. LEBLANC: So I hear you on the fraudulent
14 transfer and subcon being off the table. And that's a
15 confirmation issue. But on the intercompany loan, that 0--
16 I do see that being potentially relevant to this, because
17 some of the extrinsic evidence that has been mentioned bears
18 on whether there are claims of particular entities. So in
19 your view is that part of this litigation or is that for
20 later?

21 THE COURT: Mr. Nash, what's your view?

22 MR. NASH: I would like to confer with Mr. Pesce
23 and Mr. LeBlanc. I'm not -- I understand that there are
24 theories and arguments that would suggest that the U.K.
25 entity is a value trap before value -- pardon me, gets up to

1 the preferred equity holders. But to Your Honor's point,
2 I'm not positive that that is literally related to the legal
3 issue of where customers have claims.

4 Your Honor, I think your notion that we should
5 confer and get back to you with a schedule, understanding
6 that you want to deal with not only the contract itself, but
7 any -- pardon me, any extrinsic evidence that we think is
8 relevant to the issue. I will be surprised and disappointed
9 if we can't present to Your Honor an agreed framework and
10 schedule. And I think that we ought to confer with each
11 other and do that.

12 THE COURT: That's what I want you to do. Look,
13 I'll tell you, Mr. Pesce, I don't understand the facts at
14 this point well enough to be able to say whether the
15 intercompany loan -- how that bears on the -- the three of
16 you consult promptly, see if you can come up with an agreed
17 schedule.

18 I think, look, the way that the issues were
19 handled with respect to earned accounts, with respect to
20 custody and withhold, largely stipulated facts -- and I'm
21 not saying you're going to be able to agree on all that --
22 it presented the Court with a clear package of what it had
23 to deal with. And I found that to be quite efficient. I
24 haven't resolved it, but quite efficient.

25 MR. LEBLANC: Your Honor, Andrew LeBlanc again.

1 And we will do so, and I agree with Mr. Nash. I just --
2 there's one factual issue that I just want to make -- I
3 don't want to leave this record as it's unsaid. Mr. Pesce
4 has referred a bunch of times to an intercompany loan that
5 he said is from LLC to the mining entity. I think that's
6 factually incorrect. That's actually referred to in Mr.
7 Machinsky's first day declaration. It's a loan from CNL,
8 the U.K. entity, to the mining entity. I just don't want
9 that factual issue to be misunderstood.

10 THE COURT: Mr. LeBlanc, I have no clue.

11 MR. LEBLANC: And we don't need to resolve it,
12 Your Honor. I just didn't want it to be unsaid.

13 THE COURT: Look, the three of you come up with a
14 schedule. Okay? And if you can't come up with a schedule,
15 the three of you will have a hopefully relatively brief Zoom
16 hearing with the court. You'll come to an agreement on
17 this. Okay?

18 MR. LEBLANC: We will, Your Honor.

19 MR. NASH: We will, Your Honor.

20 THE COURT: Thanks. Thanks very much.

21 Let's move on on the agenda, the sale of the GK8
22 assets.

23 MR. NASH: I'm going to yield the podium to my
24 partner, Dan Latona, Judge.

25 THE COURT: Okay.

1 MR. LATONA: Good morning, Your Honor. For the
2 record, Dan Latona from Kirkland & Ellis on behalf of the
3 Debtors. And as Your Honor mentioned, the next item on the
4 agenda is the Debtor's proposed sale of the GK8 assets to
5 Galaxy Digital Trading.

6 The Debtor at the outset, we are mindful of the
7 papers that were filed in support of this pleading in the
8 midst of a very busy week for the Court, its chambers, and
9 all parties in interest. This process has continuously
10 evolved over the course of the last few months as part of a
11 robust months' long marketing process against the backdrop
12 of changing facts and circumstances in these cases, a very
13 tumultuous time in the cryptocurrency market, a holiday
14 schedule in Israel and competing time zones, and of course
15 but not least, hard-fought and arms-length negotiations
16 between the Debtors, potential bidders, and their respective
17 advisors.

18 THE COURT: Well, more than just about them,
19 because apparently it's also heavily negotiated by insiders
20 of the Israeli debtors who are insisting on employment
21 contracts, are insisting on transfer of all potential
22 avoidance claims. I have real questions whether this is an
23 arms-length transaction.

24 MR. LATONA: Understood, Your Honor. And in
25 support of the proposed sale and the marketing process, the

1 Debtors do submit the declaration of Ryan Kielty, partner of
2 a debt advisory and restructuring practice at Centerview
3 Partners, the Debtor's investment banker. That declaration
4 was filed at Docket 1622. Mr. Kielty is available for
5 questioning to the extent Your Honor or any party in
6 interest wishes to speak to them.

7 THE COURT: Do you want to offer that declaration
8 into evidence?

9 MR. LATONA: I was about to do that, Your Honor.

10 THE COURT: All right. Are there any objections
11 to the Court admitting in evidence the Kielty declaration,
12 ECF 1622?

13 Hearing none, it's admitted into evidence.

14 MR. LATONA: Thank you, Your Honor. Before
15 beginning, I would also note that the Debtors filed two
16 additional motions in support of a sale. The first is a
17 supplemental bidding procedures motion disclosing additional
18 extraordinary provisions contained in the APA. That was
19 filed at Docket Number 1620. And there was a related motion
20 to expedite filed at Docket 1621.

21 Your Honor, what I propose to do is give a brief
22 background on the GK8 business, including the critical and
23 integral role that its two cofounders play in its continued
24 success, provide some context around the backdrop of
25 Celsius' acquisition of the GK8 entities, and then walk

1 through the Debtor's marketing process that has continuously
2 evolved over the past few months and the reasons for the
3 transaction structure that we are presenting today.

4 THE COURT: Tell me first when did Celsius acquire
5 the GK8 entities?

6 MR. LATONA: In October of 2021.

7 THE COURT: And what did it pay for them?

8 MR. LATONA: Approximately \$115 million.

9 THE COURT: And as I understand it, you are
10 proposing to sell it for \$44 million?

11 MR. LATONA: That's correct, Your Honor.

12 THE COURT: All right. Go ahead with your
13 presentation.

14 MR. LATONA: Thank you, Your Honor.

15 The GK8 business was founded in 2018 in Israel by
16 its CEO, Lior Lamesh, and its CTO, Shamar Shamai. Both Mr.
17 Lamesh and Mr. Shamai are former Israeli governmental
18 cybersecurity experts. Bidders and all parties in interest
19 view both Mr. Lamesh and Mr. Shamai as critical and integral
20 to the continued success of the GK8 business. And as set
21 forth in Mr. Kielty's declaration, many bidders were
22 unwilling to consider purchasing the GK8 assets without
23 ensuring that both Mr. Lamesh and Mr. Shamai would continue
24 their involvement with GK8.

25 GK8, Your Honor, is a blockchain security company

1 that offers its customers an end-to-end platform for
2 managing its digital assets without internet connectivity.
3 The patented technology is combined with multi-party
4 computation to achieve cold security, or in other words,
5 off-chain security with hot functionality, or on-chain
6 functionality. That means that customers can manage and
7 store their digital assets remaining fully secure without
8 ever connecting to the internet.

9 The GK8 platform is asset-agnostic and supports a
10 vast number of digital assets and also allows for an
11 additional array of services. For example, trading,
12 staking, and self-custody.

13 And, Your Honor, it was this last functionality
14 custody that led Celsius to acquire GK8 in October of 2021.
15 The intent was to integrate GK8's custody services into its
16 own platform so that Celsius can in turn offer its own
17 customers with a self-custody service.

18 Unfortunately, headwinds in the cryptocurrency
19 industry affected Celsius' liquidity and its ability to
20 integrate the GK8 platform into its own platform. Being
21 that it is still a relatively new business, GK8 needs
22 continued support to continue growing. And with the
23 backdrop and drag of the Celsius liquidity problems and the
24 GK8 co-founders' reluctance to continue without further
25 guarantee of employment or continued support, in June 2022,

1 the Debtors determined in their business judgement to
2 conduct a marketing process for the GK8 assets.

3 To that end, the Debtor's investment banker,
4 Centerview, began a robust marketing process. And in turn,
5 the Debtors filed a bidding procedures motion, and that
6 order was entered at Docket 687.

7 Centerview initially contacted 44 parties
8 consisting of strategic partners, other platforms in the
9 cryptocurrency industry, and other traditional financial
10 institutions. Of those 44, 30 parties executed NDA and were
11 granted access to a virtual data room containing diligence
12 with respect to the GK8 assets.

13 At the initial bid deadline, the Debtors received
14 six initial bids. Four of those bidders advanced to a
15 second round. And during an interim non-binding deadline,
16 three of those four bidders submitted revised bids.

17 THE COURT: Let me ask. The bidding procedures
18 that were -- because the three entities were non-debtors and
19 the bidding procedures motion proposed a sale of the equity
20 of these three entities, not of the assets.

21 MR. LATONA: Initially the bidding procedures for
22 the GK8 assets contemplated only an equity sale. The
23 revised order --

24 THE COURT: And there has not been until now any
25 request that it be a sale of assets versus a sale of equity.

1 MR. LATONA: The revised order for the bidding
2 procedures at Docket 687 does contemplate either an equity
3 sale or an asset sale. And that's a great segue, Your
4 Honor.

5 It was during this second round of bids that
6 prospective bidders were only willing to structure this
7 transaction as an asset sale --

8 THE COURT: And I fully understand that the
9 bidders want to buy pursuant to an asset sale and want
10 protection against claims, liens, et cetera. They want a
11 free and clear sale. They want to know what they're buying
12 free of any claims or liens. That's their desire. So that
13 I all understand.

14 I think -- I want to be satisfied that the sale
15 process was a fair process to all interested parties. And
16 since the initial bidding procedures were for a sale of the
17 equity and not of assets, because they were non-debtors,
18 whether all of the potential interested parties knew that
19 they could -- that it was possible to structure bids for
20 assets rather than the equity.

21 MR. LATONA: Absolutely, Your Honor. The Debtors
22 would have preferred an equity sale. That would have been
23 the path of least resistance. But as you'll find out and as
24 is set forth in Mr. Kielty's declaration, as we continued on
25 and the (indiscernible) facts and circumstances in these

1 cases, it was the bidders who insisted on an asset sale
2 given the backdrop of a potential claims at every box issue
3 and post-closing exposure of substantially potentially
4 billions of dollars in customer-related claims related to --

5 THE COURT: What you've said is there were 30
6 parties that signed NDAs, six submitted initial bids. At
7 least as to the six who submitted initial bids, were those
8 all bids for assets as opposed to the equity?

9 MR. LATONA: If Mr. Kielty is on, he can certainly
10 speak to the content of those bids and whether they were for
11 assets or equity.

12 MR. KIELTY: I'm on, Dan.

13 THE COURT: Go ahead.

14 MR. KIELTY: Sure. Good morning, Your Honor.

15 THE COURT: Good morning.

16 MR. KIELTY: So the 30 parties that signed NDAs,
17 despite the fact that the bid procedures at that time were
18 for equity only given the tumultuous crypto market, we were
19 clear with bidders that we were open to entertaining all
20 bids. And while our strong preference at that time was for
21 those bids to be for an equity sale, it was clear that we
22 were open to other potential structures. And so the six
23 non-binding indications of interest that we received in mid-
24 August, some of those bids specified a structure consistent
25 with what we asked. Others were just silent on the topic.

1 I think at that stage what we often see in these processes
2 is it's just a bidder looking at the company almost
3 structure-agnostic, putting forth an indication of the value
4 that they could achieve once they dig in with diligence.
5 Parties at that point had not hired legal counsel. And
6 that's why when we got to the second round when parties
7 started retaining advisors that dug into the claim structure
8 of the company and the potential risk that's when the
9 conversations quickly shifted to an asset sale. So we were
10 very open from the beginning that we were willing to
11 entertain all structures.

12 THE COURT: Thanks very much. Okay. Mr. Latona,
13 go ahead.

14 MR. LATONA: Thank you, Your Honor. And as Mr.
15 Kielty said, it was during this second round where
16 prospective bidders were only willing to consider the
17 transaction as an asset sale.

18 So while Centerview continued its marketing
19 efforts, the Debtors pivoted and analyzed the number of
20 alternative structures. And given that the Debtor's GK8
21 business is located in Israel, the Debtors engaged local
22 Israeli counsel to determine what was the most efficient and
23 value-maximizing path forward. And after months of
24 diligence and conversation with advisors, the debtors and
25 their advisors determined that filing the GK8 entities for

1 Chapter 11, pursuing a sale pursuant to Section 363 of the
2 Bankruptcy Code and seeking recognition of those proceedings
3 in Israel for enforcement of the sale order was the most
4 efficient path forward that minimized the risk and maximized
5 the value of the assets.

6 THE COURT: Is it a condition to the effectiveness
7 of the sale that an Israeli court recognizes and enforce any
8 order that this Court enters regarding the sale.

9 THE COURT: It is, Your Honor. And during this
10 process, all prospective bidders were represented by
11 sophisticated and competent counsel.

12 So during this backdrop, Your Honor, Centerview
13 continued to engage with bidders, including further
14 diligence in the data room including negotiations with
15 management with respect to the retention packages that were
16 ultimately entered into and also with respect to the GK8
17 technology and business. On the final bid deadline, the
18 Debtors received one revised bid from Galaxy Digital Trading
19 LLC. After receiving that bid, the Debtors continued
20 negotiating with Galaxy to improve its bid. That bid, Your
21 Honor, was conditioned on retaining Mr. Lamesh and Mr.
22 Shamai as part of the go forward process.

23 THE COURT: whose condition was that?

24 MR. LATONA: That if --

25 THE COURT: Whose condition was it?

1 MR. LATONA: Galaxy's, Your Honor.

2 THE COURT: Okay.

3 MR. LATONA: And in turn, Your Honor, Mr. Lamesh
4 and Mr. Shamai were unwilling to continue with Galaxy
5 without certainty as to their future.

6 THE COURT: Okay.

7 MR. LATONA: Your Honor, the Debtors continued to
8 negotiate with Galaxy. Unfortunately, on November 11th, as
9 Your Honor is aware, FTX and a number of its subsidiaries
10 filed for bankruptcy. And that threw the cryptocurrency
11 market into pretty tumultuous times. Bitcoin prices
12 declined approximately 25 percent.

13 Nevertheless, the Debtors, their advisors, and
14 Galaxy and their advisors continued negotiating. And on
15 December 2nd reached terms of a definitive agreement. The
16 headline purchase price of that agreement is for \$44
17 million, including \$100,000 of assumed liabilities.

18 THE COURT: Who owns Galaxy?

19 MR. LATONA: Mr. Kielty?

20 MR. KIELTY: Sure. So Steven Wald is on from
21 Galaxy for questions. But Galaxy Digital Holding is a
22 publicly traded company on the TSX Exchange.

23 THE COURT: Is it based in Israel?

24 MR. KIELTY: No.

25 THE COURT: No. Okay. All right. Go ahead, Mr.

1 Latona.

2 MR. LATONA: Thank you, Your Honor. Between the
3 final bid deadline and the cancellation of the auction, the
4 Debtors and their advisors continued negotiating with other
5 parties, but ultimately Galaxy remained the only qualified
6 bid. As a result, the Debtors and their advisors cancelled
7 the auction and declared Galaxy the successful bidder.

8 Consistent with discussions, Your Honor, to
9 implement this sale, the Debtors filed the GK8 entities for
10 Chapter 11. And if we continue, Mr. Briefel will walk
11 through those pleadings. But overview, the Debtors will
12 file for Chapter 11, seek to appoint Mr. Christopher Ferrara
13 as foreign representative, and subsequently file recognition
14 proceedings in Israel to seek enforcement of the sale order.
15 Notice has been provided in both English and Hebrew to U.S.
16 and Israeli customers. And, Your Honor, the bid and the APA
17 contemplates assuming all operational liabilities including
18 vendors, employee-related contracts, and other contract
19 counterparties. The purpose of this sale is to insulate the
20 GK8 assets from the hang of potential Celsius account-
21 related customer claims. It was very important during the
22 negotiations that we communicated to bidders that we wanted
23 to minimize the impact of this process on local creditors in
24 Israel. And as a result, Galaxy's bid contemplates assuming
25 all liabilities known to them as of the closing date.

1 With that, Your Honor, the Debtor has received one
2 limited objection to the sale. It was filed at Docket 1617
3 by a proposed class of securities plaintiffs in the
4 securities litigation. I am happy to report and I will let
5 Counsel speak for themselves. But that issue has been
6 resolved in the revised proposed order at Docket Number 1640
7 filed this morning.

8 THE COURT: This is over preservation of
9 documents, access to records, et cetera.

10 MR. LATONA: Correct, Your Honor. Because of the
11 way the GK8 debtors store their documents in the cloud and
12 digitally, the Debtors are able to image those documents and
13 maintain them.

14 THE COURT: And Mr. (indiscernible) represents --
15 is the bankruptcy counsel for the --

16 MR. LATONA: Mr. Behlmann from Lowenstein.

17 THE COURT: Okay.

18 MR. LATONA: I don't see him on the...

19 THE COURT: Okay. All right. We'll turn to that
20 in a minute.

21 Let me sort of cut to the chase what questions I
22 have. First, tell me who insisted on -- in the negotiations
23 who insisted on the sale including all avoidance actions
24 against any of these Debtors. You know, I guess Mr. Shamai,
25 Mr. Lamesh, and potentially -- I don't know who else is

1 listed. I didn't see a list of all of the people who would
2 have any avoidance claims against them transferred to
3 Galaxy.

4 MR. LATONA: Your Honor, it wasn't a very
5 contentious point of negotiation.

6 THE COURT: It is with me.

7 MR. LATONA: Understood, Your Honor. The GK
8 Debtors are not aware of any avoidance actions. We --

9 THE COURT: Well, let me ask some specific
10 questions then.

11 MR. LATONA: Sure.

12 THE COURT: How many -- it's 44 people who would
13 have their -- have avoidance claims transferred to Galaxy?

14 MR. LATONA: It's approximately 40 employees and a
15 similar number of contract counterparties.

16 THE COURT: Okay. Do any of those employees
17 against whom avoidance claims would be transferred to
18 Galaxy, have any of -- are any of them listed in the
19 Debtor's schedules as having claims against the Debtors?

20 MR. LATONA: Not to my knowledge, Your Honor,
21 because those entities were not debtors when the schedules
22 were filed.

23 THE COURT: I know. But did Mr. Lamesh, Mr.
24 Shamai, or any of these other employees have earn accounts
25 with the Debtors?

1 MR. LATONA: No, not to my knowledge.

2 THE COURT: You're going to have to put in -- is
3 there -- I haven't seen any declarations or evidence as to
4 whether any of the people who would have avoidance --
5 potential avoidance claims transferred to Galaxy are listed
6 on schedules or have filed claims. I mean...

7 MR. LATONA: We'll look at that, Your Honor.

8 THE COURT: Because the 502(d) issue, they would
9 be left with their claims and the Debtors wouldn't be able
10 to take advantage of 502(d) and say, well, they've got to
11 pay back whatever they received from the Debtors. Okay.

12 Have any of those people -- those people being the
13 people who would have avoidance claims transferred to Galaxy
14 -- received any payments -- or other than salary, what
15 payments have they received from any of the Debtors in the
16 last year? I don't know how many of these 40 would be
17 determined to be insiders. So whether we're talking about a
18 90-day period, a one-year period, a two-year period for
19 fraudulent conveyance under the bankruptcy code, let me --
20 I'll start by saying this. I didn't see anything where the
21 Debtors or -- and then I'll have questions for the Committee
22 about this as well, whether anyone has done an analysis of
23 whether the Debtors have avoidance claims that can be
24 pursued against any of the people for whom avoidance claims
25 would be transferred to Galaxy.

1 So if that analysis showed that there potentially
2 is \$50 million in claims against the individuals, the \$44
3 million price tag just disappeared. You know, you're
4 getting nothing.

5 MR. LATONA: Understood, Your Honor. Without
6 having done any analysis, I can say that it's unlikely that
7 that it would be \$50 million in avoidance actions given --

8 THE COURT: Oh, okay. Well, how much might it be?

9 MR. LATONA: To our knowledge, Your Honor, none.

10 THE COURT: You didn't put in any evidence to show
11 -- you know, you've listed it because these are
12 extraordinary provisions. But you've provided the Court
13 with absolutely zero analysis of what potential claims are
14 the potential avoidance claims against any of these people
15 and what the potential range of value of those claims might
16 be. I wouldn't doubt they'll assert defenses. And maybe
17 there aren't any. But I don't know whether you're proposing
18 to transfer a valuable asset of the estate to Galaxy. Okay?
19 And I'm not approving a sale until I understand that, with
20 evidence.

21 MR. LATONA: Your Honor, the Debtors are happy to
22 submit a declaration with that analysis.

23 THE COURT: Well, I don't know whether a single
24 declaration is going to do it. I will -- after you've
25 finished your presentation, I want to hear from the

1 Committee. And I know the examiner has also appeared at the
2 hearing. You know, I don't know. I mean, how you could
3 dump in yesterday papers -- that's when I first saw it.
4 Okay? And yes, you disclosed the extraordinary provisions.
5 Okay? But you provided zero evidence as to what -- that the
6 Debtor has done any evaluation. I don't know whether the
7 Committee has done any evaluation, whether anybody has done
8 any evaluation. What are the potential avoidance claims?
9 Okay. And without knowing that, I mean, you know, for every
10 potential dollar of recovery against any of these employees,
11 subtract that from the \$44 million.

12 Look, you bought the company for \$115 million in
13 October 2021 and you're selling it now for \$44 million.
14 Obviously the market has turned upside down. But -- let me
15 stop there. Bottom line is you agree you have not provided
16 any evidence whatsoever about what the potential avoidance
17 claims are and what the range of possible values of those
18 claims would be, correct?

19 MR. LATONA: Yes, Your Honor. The Debtor has not
20 done an analysis on that.

21 THE COURT: Do you think it's material?

22 MR. LATONA: We don't know until we analyze it,
23 but we find it unlikely.

24 THE COURT: Why is that?

25 MR. LATONA: Given the short amount of time that

1 the GK8 debtors have been in business, that they're not
2 profitable at this point, that they've required continued
3 funding from the Debtors to continue operating. It's very
4 unlikely that a material number of avoidance actions exist.

5 THE COURT: Well, whatever evidence you submit
6 also needs to include specifically whether any of the
7 individuals against whom avoidance claims would be assigned
8 to Galaxy, whether any of them had earn accounts with the
9 Celsius debtors and whether within one year before the
10 filing of the petitions for these Israeli companies --
11 what's the net -- have they received any net distributions
12 from accounts? I mean, if they withdrew -- for example, if
13 they had millions of -- ostensibly crypto valued at millions
14 of dollars and they withdrew their assets from those
15 accounts in the 90 days or their insiders within a year
16 before the filing of the bankruptcy, it's going to raise
17 potential avoidance issues. And I need an analysis. I am
18 not approving a sale -- if they want to drop -- if they want
19 to go back and renegotiate and no longer transfer avoidance
20 actions, that may put this issue to rest for now. But if
21 that's a deal stopper, then I need a complete analysis on
22 it. And not only from the Debtors. I'm going to ask the
23 Committee and also ask the examiner. Somebody has got to do
24 an analysis of it.

25 MR. LATONA: Understood, Your Honor. We will, and

1 we will submit a declaration.

2 MR. D'AVERSA: Your Honor, may I be heard?

3 Raniero D'Aversa from Orrick, Herrington & Sutcliffe for --

4 THE COURT: Not yet. Not yet. Not yet. Okay.

5 I'll give you a chance, obviously. But I want to...

6 Mr. Latona, have you finished your presentation?

7 MR. LATONA: Yes.

8 THE COURT: All right. Who else wants to be
9 heard?

10 CLERK: Judge, we have a few hands up.

11 THE COURT: I see that. But let me hear -- before
12 I hear from any pro se creditors, I want to hear from -- let
13 me hear from the Committee's counsel next.

14 MR. ZATZ: Yes. Good morning, Your Honor. Andrew
15 Zatz from White & Case on behalf of the Official Committee
16 of Unsecured Creditors.

17 So let me speak to the issue first about the
18 potential claims that could potentially exist against
19 employees of GK8 related to accounts they may have had at
20 Celsius.

21 If you look at the purchase agreement, Section 1.1
22 lists out all of the assets that are being sold. Section
23 1.1(g) describes the sale of causes of action.

24 In Section 1.2, you have the excluded assets. And
25 the excluded assets in Section 1.2(p) excludes claims and

1 causes of action where debtors other than the GK8 entities
2 are co-plaintiffs.

3 So for any claim that is a shared claim of all the
4 debtors, those are not being sold. For any claim that is an
5 exclusive claim of a Debtor that is not a GK8 entity, those
6 claims are also not being sold.

7 So for any type of preference or other action that
8 may or may not exist for any employee of GK8 related to
9 accounts that they may have had at Celsius, those are being
10 preserved and not being sold. So we got comfortable on that
11 front because of the way the purchase agreement works on
12 that point.

13 We did an analysis of the legal basis for any
14 other potential claims that may exist. Your Honor, as you
15 noted, there is a meaningful difference between what the
16 company paid for GK8 not too long ago and what it is
17 purporting to sell it for today. That value diminution ties
18 closely to the diminution of the cryptocurrency market
19 generally. And in fact, the price that the Debtor's
20 achieved in this marketing process reflects less of an
21 impact than the cryptocurrencies themselves. The Committee
22 has been involved every step of the way in this process. We
23 believe this is a fair price.

24 Putting aside the fairness of the price, the fact
25 of the matter is we were not able to identify a good claim

1 or cause of action, or even one that we think really that
2 would survive a motion to dismiss based on the original
3 acquisition. The fact of the matter is in total hindsight,
4 this purchase should not have been made. That's the reality
5 given what the company paid and what it can now sell it for.
6 But that doesn't make it a fraudulent transfer or anything
7 of that ilk. Everything --

8 THE COURT: I understand. But, you know, I just
9 get blindsided when I look at papers that were filed
10 yesterday, and they quite properly showed this as an
11 extraordinary provision but give no explanation for it or no
12 analysis. And I'm certainly glad to hear that it's
13 something that the Committee appears to have focused on.
14 But I need it addressed --

15 MR. ZATZ: I understand, Your Honor. And we are
16 absolutely sympathetic to the Court's desire to get
17 additional evidence of the analysis, and we're in support of
18 that. And we are happy to work with the Debtors on putting
19 that together.

20 THE COURT: Let me just -- so it's your reading of
21 Section 1.2(p) of the purchase agreement that any potential
22 avoidance actions against either the two founders or any of
23 the other employees that arise from any earn accounts they
24 had, any transfers relating to any of that, none of that is
25 being transferred to Galaxy.

1 MR. ZATZ: Correct, that is our understanding.

2 THE COURT: What is being transferred to them?

3 MR. ZATZ: It's really all claims and causes of
4 action that GK8 has. But if we're talking specifically
5 about employees of GK8, you could -- you know, there are two
6 sources of income that those employees may have gotten along
7 the way. One is proceeds of the original sale and salary,
8 bonuses, what have you. And again, we've looked at the
9 legal credibility of any claims associated with that, and we
10 as the Committee got comfortable that there is little to no
11 value in those potential claims.

12 THE COURT: Just to be clear, has the Committee
13 looked at whether any of the approximately 40 people
14 involved, whether any of them had Celsius earn accounts?

15 MR. ZATZ: I'm not aware that we had done that
16 analysis because we had gotten comfortable with the
17 preservation of the claims.

18 THE COURT: Okay. I'm just making some notes
19 here.

20 Anything else you want to add, Mr. Zatz?

21 MR. ZATZ: I did have some remarks I wanted to
22 make in support of the Debtor's motion.

23 THE COURT: Yeah, please. Go ahead.

24 MR. ZATZ: So as I had mentioned, the marketing
25 process for the GK8 business entailed multiple bidders and

1 extensions of failed deadlines in an ongoing attempt by the
2 Debtors to get the highest and best offer for GK8. The
3 marketing process here was extensive. Debtors kept the
4 Committee informed and involved throughout this process.
5 And we can verify that the Debtors took every action
6 possible in an attempt to maximize value in connection with
7 the GK8 sale.

8 We think that it's important that this sale happen
9 as soon as possible. We considered whether taking more time
10 could result in more or better bids. We also considered a
11 standalone reorganization of GK8 or including GK8 in a
12 potential standalone reorganization for the entire Celsius
13 enterprise.

14 The biggest obstacle to these alternatives was the
15 need to retain the two founders of GK8, Mr. Lamesh and Mr.
16 Shamai. Founders are critical to GK8, a view shared by all
17 bidders involved in the process. Without the founders, the
18 purchase price for GK8 would be expected to go down
19 significantly.

20 The founders have been patient, but there is no
21 assurance that they will remain with GK8 indefinitely so
22 it's important to lock down compensation packages for them,
23 which Galaxy successfully did after extensive negotiations.
24 And the money to pay the founders has to come from
25 somewhere, which complicates the notion of a standalone

1 plan.

2 Moreover, there is no assurance that time is on
3 our side and no reason to think that the value of GK8 will
4 increase merely by waiting this out. Our view is that the
5 Debtor's marketing process reached its logical conclusion,
6 and additional time would not change that.

7 In sum, the Galaxy bid is the classic bird in
8 hand. Given the deterioration of value in the crypto market
9 generally, we believe the price for GK8 is a good one and is
10 the highest and best available.

11 The proceeds of the GK8 sale will be accretive to
12 this process. With a further court order, they could be
13 available to fund these cases. But we are hopeful that
14 won't be necessary, and those funds ultimately can be
15 distributed to customers under a plan of reorganization.
16 Those aren't issues for today, but ultimately disposing of
17 the GK8 business and obtaining a meaningful amount of cash
18 for the estate is beneficial and should be approved. Thank
19 you, Your Honor.

20 THE COURT: All right. Thank you, Mr. Zatz. Let
21 me next ask -- I see Ms. Cornell on the screen with her hand
22 raised, and I was going to ask for the position of the U.S.
23 Trustee.

24 MS. CORNELL: Good morning, Your Honor. Shara
25 Cornell on behalf of the Office of the United States

1 Trustee.

2 The United States Trustee has some more concerns
3 to Your Honor, and at this time we are renewing our previous
4 objection to the Bid Procedures Motion in light of the
5 expedited nature and the new bankruptcy filing. We should
6 allow creditors and parties in interest an opportunity to
7 review if they've changed their position in light of the
8 filings.

9 The sale procedures with respect to equity, they
10 were filed earlier in this case. But as the Debtors have
11 said, they've pivoted to look at alternative structures.
12 But at no point prior to this week were new bid procedures
13 clearly filed on the docket letting all parties in interest
14 know that a new sale was being contemplated. And it sounds
15 from both the Debtors and the Committee that this was as far
16 back as November, that they had pivoted to a sale of the
17 entire GK8 and not just the equity interest.

18 THE COURT: Well, when you say a sale pivoted
19 toward a sale of the assets, I can't say -- I'm not
20 surprised at all that buyers wanted a 363 sale and
21 protection to the extent it's available against claims, et
22 cetera. So none of that -- I mean, I commented yesterday
23 with Mr. Nash at the end of the hearing, so I'm not
24 surprised that it pivoted toward an asset sale rather than
25 an equity sale.

1 MS. CORNELL: Sure.

2 THE COURT: You know, I wanted to be satisfied,
3 and Mr. Kielty has addressed this, that the potential
4 interested parties were all operating on a level playing
5 field, and understanding that, the Debtor would be prepared
6 to move forward with an asset sale as opposed to just an
7 equity sale. Based on what I've been told today, I am
8 satisfied on that point. Obviously I raised issues. It was
9 certainly unclear to me what avoidance, potential avoidance
10 claims against the founders or the larger number of
11 employees were being transferred. Mr. Zatz certainly
12 addressed that more particularly. Just to make clear, I'm
13 going to require the filing of one or more declarations that
14 specifically address it. When I say it, that this would not
15 transfer avoidance claims against any of these people based
16 on earn accounts they had or other account relationships.
17 As I understand it, it would only transfer avoidance claims
18 that might exist by these three Israeli entities. So, look,
19 you know, the issues surrounding timing of a 363 sale, if
20 this really were a first day hearing -- it is a first day
21 hearing with respect to these three entities. But the fact
22 of the matter is the court approved -- it has been on the
23 radar screen and table for everyone for the sale of these
24 entities, whether it's equity or originally the equity in
25 the bidding procedures that was approved.

1 So, you know, certainly the Second Circuit's
2 Chrysler opinion -- you know, the Second Circuit is no
3 longer Lionel is no longer the controlling law in the Second
4 Circuit about the timing of a 363 sale.

5 MS. CORNELL: Sure. Sure.

6 THE COURT: So this definitely is not a sale on
7 day one or two of these new debtor cases. Everybody -- you
8 know, you've known it, everybody's known it.

9 MS. CORNELL: I understand. But just to add just
10 a little bit more to the conversation about this that hasn't
11 been brought up by the other parties, you know, GK8 has a
12 fiduciary obligation to its own creditors, and its creditors
13 and what's in the best interest of GK8's creditors may not
14 be the same as what's in the best interest of Celsius
15 creditors. And prior to the petition, GK8 had a fiduciary
16 obligation regarding the sale of the equity. And now as a
17 Debtor, there's new fiduciary obligations. And a motion
18 should not be granted until such a time that a committee is
19 formed if one is possible to be formed. Now the Debtors are
20 talking about bidding procedures that happened prior to the
21 filing of the petition. And once that petition was filed,
22 the legal petition of GK8 has changed. So I think that
23 also --

24 THE COURT: Ms. Cornell, I can't imagine there's
25 going to be a separate creditors' committee for these three

1 entities. So, you know, I realize I don't have a specific
2 motion addressed to this today, but this enormously
3 expensive case is not going to result with a separate
4 committee for the -- and we'll come back to Mr. Latona. I
5 thought I understood him to say that all creditor claims of
6 these three entities are going to be paid by the buyer, that
7 they're riding through essentially and all of those claims
8 are going to be satisfied. Mr. Latona, am I correct on
9 that?

10 MR. LATONA: That is correct, Your Honor. Between
11 the cure costs and the proposed first day relief, we do
12 expect that the overwhelming majority of the GK8 debtor or
13 creditors will be paid upon closing or pursuant to the first
14 day relief.

15 THE COURT: Okay.

16 MS. CORNELL: And, Your Honor, whether a committee
17 is formed is yet to be seen. But the United States Trustee
18 has obligations under 1102 to solicit for a committee. And
19 particularly in this case on the petitions that were filed
20 for GK8, all of the creditors listed in the top 20 creditors
21 are different than the creditors listed on the petitions of
22 any of the Celsius-related entities.

23 THE COURT: Mr. Latona, does the purchase
24 agreement -- how does it deal with the payment of claims of
25 any of the GK8 creditors? Does it? Does it have any

1 provisions that those claims will -- any -- will be
2 satisfied in full? What does it provide, or does it?

3 MR. LATONA: Your Honor, Dan Latona for Kirkland &
4 Ellis on behalf of the Debtors. Part of the purchase price.

5 THE COURT: I mispronounced your name. I'm sorry.
6 Go ahead.

7 MR. LATONA: Part of the purchase price includes
8 \$100,000 of assumed liabilities. And pursuant to the
9 assumption of those contracts, they will be cured in the
10 ordinary course. And again, pursuant to the proposed first
11 day relief, we do anticipate that 100 percent of creditors
12 will be paid in closing or pursuant to the first day relief.

13 THE COURT: Okay. Ms. Cornell, go ahead.
14 Anything else?

15 MS. CORNELL: Well, just to that point of Mr.
16 Latona, the schedules and statements have also not been
17 filed in this case, and the Debtor anticipates them not
18 being filed until the end of January as of today's date.
19 So, you know, just putting that on Your Honor's radar as
20 well, that we still don't have a complete picture. And I
21 think that's all that I have for now. Thank you.

22 THE COURT: Thank you, Ms. Cornell. All right.
23 Who else wants to be heard? Mr. Crews, your hand is up.

24 MR. CREWS: Thank you, Your Honor. Just two
25 matters to bring before you today. Mr. Latona mentioned the

1 sale price of GK8 being \$115 million, which would lead one
2 to believe that this was a cash offer. The --

3 THE COURT: No, no, no, no, no. Hold on, Mr.
4 Crews. The sale price is \$44 million. The \$115 is what
5 Celsius paid for it when it bought it.

6 MR. CREWS: Exactly. Exactly, yes. That's the
7 point. It made it seem like it was a cash purchase where we
8 had heard, just leaked information, that it could be a sell
9 token/equity purchase, which is relevant, I think, to
10 determining the origin of the initial bid. If it's \$115
11 million in cash, it's a very different thing from if they're
12 using sell token and --

13 THE COURT: Mr. Crews, it's not \$115 million, it's
14 \$44 million. And let me ask Mr. Latona, is it cash?

15 MR. LATONA: So, Your Honor, I think I understand
16 what Mr. Crews is saying, so let me address that. The GK
17 sale currently under contemplation today is for \$44 million
18 in cash and \$100,000 assumed liabilities. I believe, Mr.
19 Crews, and he can correct me if I'm wrong, is referring to
20 Celsius's acquisition of GK8 back in 2021. And from my
21 understanding, that purchase price was funded by a
22 combination of a little over \$100 million in cash, the
23 remaining in equity in sell token.

24 THE COURT: Okay. But the point is, the purchase
25 price now is cash.

1 MR. LATONA: That's correct, Your Honor.

2 THE COURT: Okay. Mr. Crews, go ahead. Anything
3 else?

4 MR. CREWS: Yes. One other matter and thank you
5 for clarifying. That was exactly what I was asking about,
6 Mr. Latona. The other matter, just when it comes to
7 avoidance concerns, the biggest elephant in the room would
8 be with regard to a co-founder of Celsius, Mr. Shlomi Daniel
9 Leon, who is an Executive Chairman of GK8. And he extracted
10 millions of dollars from Celsius in the months before the
11 pause in bankruptcy filing. So, any avoidance analysis
12 should involve just addressing him.

13 THE COURT: I think -- I'll try and get
14 clarification on this. As I understand what Mr.
15 (indiscernible) has described is, any claim by the Celsius
16 entities because of any value withdrawn from earn accounts
17 from the Celsius entities is not being -- those avoidance
18 claims remain -- to the extent that there are avoidance
19 claims, remain property of these debtors' estates, are not
20 being transferred. Mr. Zatz, am I correct in that?

21 MR. ZATZ: Yes, Your Honor. That is correct.

22 THE COURT: Okay. Mr. Latona, do you want to just
23 -- do you agree with that, as well? Those --

24 MR. LATONA: That was the thing that, when I --
25 jumped out off the page to me yesterday when -- because it

1 didn't define what avoidance claims were being transferred
2 and I was very concerned whether avoidance claims that the
3 Celsius debtors have against anybody associated with GK8,
4 are not going to disappear.

5 MR. LATONA: That's correct, Your Honor. For the
6 record, Dan Latona of Kirkland & Ellis. Mr. Leon's
7 transactions are -- any insider transactions are being
8 investigated by the Special Committee and the Creditors'
9 Committee, so none of those actions would be transferred
10 pursuant to the sale. Furthermore, Mr. Leon was never
11 directly employed by a GK8 entity.

12 THE COURT: I'm sorry, was or wasn't?

13 MR. LATONA: Was not.

14 THE COURT: Okay. All right. Mr. D'Aversa?

15 MR. D'AVERSA: Good morning, Your Honor. Ran
16 D'Aversa from Orrick, Herrington & Sutcliffe for Galaxy
17 Digital Trading. I was trying to speak before, but I thank
18 Mr. Zatz for making the clarification that I was going to
19 with respect to the avoidance actions. Galaxy has an
20 interest in ensuring that its employees and counterparties
21 are not going to get dragged into a lawsuit, a potential
22 avoidance action by GK8 because the estate will still be
23 there after the sale, so that's the intent there. And I
24 think that's typical often of buyers of operating companies
25 that want to continue to have good relationships with their

1 employees and counterparties.

2 I do want to make the Court aware of one thing.

3 If, in fact, the Court is going to require additional
4 information from -- in the form of affidavits or what have
5 you from the company, just want to make the Court aware that
6 a delay may not be without consequences. We're not here --

7 MR. COURT: Mr. D'Aversa, if I require the
8 additional evidence, I want it in by Monday.

9 MR. D'AVERSA: Oh, okay. Well --

10 MR. COURT: Well, let me stop you. This -- we're
11 moving fast, okay. So, this does not prolong -- I don't
12 view this as prolonging the issues. I'll address the U.S.
13 Trustee's concerns, but I hope you appreciate what -- after
14 two full days of Celsius hearing, last night I read papers
15 relating to the matter we're talking about now. And
16 obviously, I've expressed questions that I had, and I'm
17 comforted to some point, to some degree, by the
18 representations that Mr. Latona and Mr. Zatz have made with
19 respect to what claims against GK8 officers or employees are
20 being transferred to Galaxy. Okay. I want one or more
21 declarations that -- under oath, where that's put on the
22 record for everybody to see. And I want a Memorandum of Law
23 that, essentially, goes through the analysis that Mr. Zatz
24 provided the Court about specific provisions of the Purchase
25 Agreement, what claims -- potential claims, there may not be

1 any, but what potential claims are being transferred to
2 Galaxy and what remain with the Debtors. I don't see this
3 as prolonging these issues very long. So, if you have other
4 concerns, I'd like to hear it, as well.

5 But I do have a question for you. When is the
6 cross-border case for these Debtors being filed in Israel
7 and what is the process -- in one of my other current
8 Chapter 11 cases, there also is a cross-border case in
9 Israel and I don't know, are the -- are there any regulatory
10 requirements in Israel? What's the timing, okay? I don't
11 know whether there are regulatory requirements that have to
12 be satisfied in Israel, how quickly you anticipate that a
13 cross-border case -- that any Order entered by this Court
14 will be recognized and enforced in Israel.

15 MR. D'AVERSA: Yes, Your Honor. So, there is a
16 date in the Asset Purchase Agreement by which the Israeli
17 Order must be entered, and I believe it's January 16th.
18 Debtors' Israeli counsel convinced us that we need every
19 minute of the negotiated timeline in the Asset Purchase
20 Agreement to get there in time. And I just want to make the
21 Court aware, because I respect that the Court has only had
22 the pleadings for a day or so, maybe less, that there are
23 additional deadlines that the parties agreed to and the
24 Debtor agreed to in the Asset Purchase Agreement that could
25 be triggered as soon as tomorrow, within one day of a

1 deadline, that the Debtors' know is very important to keep
2 in the overall case deadline and the path for closing on
3 track. The timing, the sequence, along with every other
4 provision in this Agreement, was painstakingly negotiated
5 for months.

6 THE COURT: Okay, but Mr. D'Aversa, let me tell
7 you, you may have been painstakingly negotiating deadlines
8 for a month, but you're not forcing me to enter -- you can't
9 force me and I'm not going to enter an Order today approving
10 this. And the faster you all get your act together and give
11 me the information that I believe I need before I can prove
12 the sale, I'm not going to approve it. And if you have to
13 go back to your clients and explain that, go ahead and do it
14 and adjust the deadlines. I'm prepared to move
15 expeditiously, but you're not going to cram down
16 unreasonable deadlines for me to act. So, go back to your
17 client and tell them that. And you could either negotiate
18 now for a revised schedule or you can just blow up the deal.
19 But that's too bad as far as I'm concerned, okay. So, don't
20 tell me that I have to act today or tomorrow or Monday,
21 because it isn't going to happen. Maybe Monday, I don't
22 know.

23 MR. D'AVERSA: Yes, Your Honor, and respectfully,
24 I did not mean that in any way. I just didn't want --

25 THE COURT: It came out that way.

1 MR. D'AVERSA: Yeah. No, my intent was just to
2 say that I don't have the authority to change any dates.
3 There are dates in the Agreement. It will require an
4 amendment or exercise their rights, whatever that may be. I
5 didn't want my silence to be interpreted as any kind of
6 consent. That's -- I don't have that authority. That's all
7 it was intended for, Your Honor.

8 THE COURT: All right. Mr. Dixon, your hand is
9 raised.

10 MR. DIXON: Simon Dixon, per se Creditor. As the
11 estate is short about 60,000 bitcoin that they spent of
12 credits as money, it would make a significant difference to
13 use, as many are pushing for payment in kind, if the deal
14 was actually settled in bitcoin rather than dollars because
15 it would -- it could make a significant difference and it
16 would cost the buyer actually very little to do so as they
17 are an OTC trading desk that could convert all this to
18 bitcoin. But we feel it would, as bitcoin is the main
19 missing part of the deal, that any sale in bitcoin at these
20 prices, would be very beneficial to the estate.

21 THE COURT: I hear you, but that's not going to
22 happen. Okay. Anybody else want to be heard?

23 MR. NASH: Judge, can I make one point?

24 THE COURT: Go ahead.

25 MR. NASH: Patrick Nash for the Debtors.

1 THE COURT: Go ahead, Mr. Nash.

2 MR. NASH: Your Honor, when I heard Ms. Cornell
3 talking about soliciting for a new Committee or whatnot,
4 there's a lot of equity value in GK8. \$44 million would be
5 coming into GK8. There is very little --

6 THE COURT: It would come into the Debtors. The
7 \$44 million would come into the Debtors, not to GK8.

8 MR. NASH: Well, we're selling --

9 THE COURT: No, it would come into GK8 -- yes.

10 MR. NASH: And to the extent that the customers
11 have claims at GK8, we have a committee for all that. To
12 the extent that customers don't have claims at GK8, any
13 creditor of GK8 is going to be paid in full and then there
14 will be equity value that will dividend up and then the
15 equity value, the dollars in excess of the very small amount
16 of creditors at GK8 will then be available for the rest of
17 the estate. But creditors of GK8, to the extent that they
18 exist and aren't being assumed, are going to be paid in full
19 unless we have \$6 billion in customer claims of GK8. But,
20 this whole idea of a separate committee and all this stuff,
21 Your Honor, we don't need it.

22 THE COURT: Mr. Nash, I don't have a Motion for a
23 committee, but I can't imagine there's going to be a
24 separate committee for these three entities.

25 MR. NASH: The thought terrifies me, Judge. I

1 just had to be heard on that. Thank you, sir.

2 THE COURT: That's fine. Anybody else want to be
3 heard? Mr. Porter?

4 MR. PORTER: Thank you, Your Honor. I appreciate
5 you more today than ever. In my perspective, humiliating
6 these high-powered attorneys not having looked at this deal
7 in the way that you've discussed and described today.
8 Furthermore, Your Honor, I think they are really trying to
9 take advantage of your and the Court's and this country's
10 never having dealt in this newfangled cryptocurrency world,
11 and I believe, in many things that are going wrong here,
12 Simon Dixon's proposal -- I know it's difficult to get your
13 arms around it and I appreciate it, the edification process
14 is unbelievable, but being paid in \$44 million of bitcoin,
15 designating those bitcoin to go to the Creditors, like
16 Simon's proposal, since this purchaser, the only purchaser,
17 it is a fair price, we believe. The people that are
18 creditors, the \$44 million, if there's nothing wrong with
19 the other parts of the transaction. Anyways, Your Honor, I
20 appreciate you listening to me again today, and I believe
21 that these attorneys are trying to hoodwink you in many
22 aspects. Thank you so much, Your Honor.

23 THE COURT: Thank you, Mr. Porter. I would just
24 say, I think -- I raised issues of concern to me when I read
25 the papers yesterday. Both Mr. Latona and Mr. Zatz have, to

1 a substantial extent, eased my concerns, but I'm going to
2 require the evidence and specific Memoranda of Law
3 addressing the issues I've raised. So, obviously I raised
4 the issues that were of concern to me after reading papers
5 last night. But let me see, does anybody else wish to be
6 heard? All right.

7 I'm going to withhold a ruling for now on whether
8 to approve the sale of the GK8 assets until receiving the
9 Memoranda of Law and one or more Declarations specifically
10 addressing the issues that I raised regarding the avoidance
11 claims. The sooner you get it in -- I'm not going to
12 schedule another hearing at this point. The sooner you get
13 it in, the faster I expect to be in a position to be able to
14 rule. I have to say that, while I'm not ruling today, I'm
15 tentatively inclined to approve the sale of the GK8 assets,
16 just -- and overrule the U.S. Trustee's objection.

17 To very briefly explain why, as I indicated
18 earlier, I think -- I don't view this as a proposed sale of
19 assets that ought to be evaluated as if it were Day One of
20 the new Chapter 11 cases, the new Chapter 11 cases referring
21 to the three Israeli entities. Those cases are properly
22 filed in this District as affiliates of the existing
23 debtors, so this Court has -- they were properly filed here.
24 It would obviously be up to the Israeli Court to decide
25 whether to recognize and enforce -- recognize a cross-border

1 case, recognize and enforce any sale order that this Court
2 approves. That's for the Israeli Court, not for this Court.
3 Subject to me being satisfied with respect to the avoidance
4 claims issue, I think that the (indiscernible) Declaration,
5 which has come into evidence, ECF 1622, demonstrates that
6 the sale price of the assets of these three Debtors is fair
7 and reasonable and it is, in the Court's view, a value
8 maximizing transaction.

9 I'm also persuaded, and this has been part of the
10 record in this case, before these entities filed, that the
11 GK8 entities are not part of the core business of the
12 Debtors and sort of, starting with the Lionel case, but
13 moving forward to how the law in this Circuit has evolved
14 since, I think most particularly, the Second Circuit
15 decision in Chrysler, Judge Jacobs' opinion in the Second
16 Circuit and subsequent decisions, I think that the timing of
17 the sale is appropriate. The U.S. Trustee's concerns about
18 whether there'll be a committee and there are no schedules
19 yet, I'm satisfied that the Creditors of these three
20 entities, their claims against the entities will be
21 satisfied, be assumed by the buyer or otherwise satisfied.
22 So, I think that the Creditors of the three GK8 entities are
23 more than adequately protected and indeed, a quick sale is
24 more likely to result in all of those Creditor claims being
25 satisfied. So, to the extent that the U.S. Trustee argued

1 otherwise, that objection is overruled.

2 Mr. Latona, when do you believe -- and I don't
3 know whether it's a single declaration or more than one
4 declaration that's going to be required, but when will you
5 be in the position to file that additional evidence?

6 MR. LATONA: Again, Your Honor, for the record,
7 Dan Latona of Kirkland and Ellis on behalf of the Debtors.
8 I believe, Your Honor mentioned Monday. We will endeavor to
9 do that by Monday 5 p.m., but the Debtors are going to move
10 as expeditiously as possible to get that declaration in as
11 soon as possible.

12 THE COURT: Okay. Mr. Zatz, not to -- I mean, the
13 Committee has done (indiscernible)'s work in this case on
14 multiple issues and I'm greatly appreciative of it. But it
15 would be helpful if the Committee also did a filing
16 indicating its support for the sale. And I think your
17 explanation of the analysis that the Committee made --
18 Committee counsel made with respect to potential avoidance
19 claims, what was being assigned, what was not. It would be
20 -- the Court would consider it very helpful if the Committee
21 also, by Monday at 5, put in a Memorandum of Law that
22 doesn't have to be very lengthy, but explain what you did
23 today. Okay?

24 MR. LATONA: Yes, Your Honor. We can do that.
25 Certainly.

1 THE COURT: All right. So, with respect to the
2 issue that was raised by Mr. Porter -- or excuse me, Mr.
3 Dixon. I don't know if it was a he or she, I apologize.
4 Okay, by Dixon and Porter about the price being in bitcoin
5 or not. To the extent that's viewed as an objection, it's
6 overruled. I think monetizing -- to the extent --
7 monetizing the estate in a fiat currency at this stage is
8 important, and whether this came up on the issue about the
9 sale of the stable coin, which I haven't ruled on yet. But
10 I think one of the things that was the evidence in that
11 hearing showed is, if the Debtor, because a plan that
12 proposes and is confirmed provides for in-kind distributions
13 to the extent the Debtor does not have sufficient crypto
14 assets to satisfy the plan, they'll have to require more.
15 But it's certainly unclear whether the plan will or won't
16 provide for distributions in kind and how the Court will
17 deal -- how the Court and the parties will deal with that.
18 So, to the extent that was an objection, I'm going to
19 overrule it. I think the price is fair, paying it in fiat
20 currency, U.S. dollars is appropriate. Mr. Latona, is there
21 anything else I need to deal with today with respect to the
22 sale?

23 MR. LATONA: Again, Your Honor, for the record,
24 Dan Latona of Kirkland & Ellis on behalf of the Debtors. I
25 have one clarification and one housekeeping matter.

1 THE COURT: Sure.

2 MR. LATONA: First, with respect to the issue that
3 Mr. Crews raised about Mr. Leon, the withdrawals for Mr.
4 Leon were between the initial Debtor entities and Mr. Leon,
5 not any of the GK Debtors entities. So, to the extent any
6 potential actions exist, they will remain property of the
7 Debtors' estates.

8 THE COURT: Put that in a pleading that's filed by
9 Monday, as well. Okay?

10 MR. LATONA: We will.

11 THE COURT: I just want the record, the
12 evidentiary record, clear as to issues such as that. Okay?

13 MR. LATONA: Understood. The last housekeeping
14 matter, Your Honor, with respect to the Supplemental Bidding
15 Procedures Motion and Motion to Expedite, will the Court
16 consider that with the Sale Order when it's entered?

17 THE COURT: Yeah. Well, I'm granting the Motion
18 to Expedite now, on the record. So, I'm not going to -- did
19 you submit a written Order for that?

20 MR. LATONA: It's with the document that's filed
21 at 1621.

22 THE COURT: Well, I need it in Word format.

23 MR. LATONA: We'll submit it to Chambers, Your
24 Honor.

25 THE COURT: So, that will be entered. Likewise,

1 the Motion to Modify the Bidding Procedures is, likewise,
2 granted, as well. I'm quite comfortable about that. I
3 raised the issues that were issues of concern to me and,
4 assuming the evidence that's provided is consistent with
5 what I've been told today, I expect to be able to approve
6 the sale. Okay?

7 MR. LATONA: Thank you, Your Honor. I appreciate
8 the time. At this time, I will cede the lectern to my
9 colleague, Mr. Briefel.

10 MR. BRIEFEL: Good morning, Your Honor. Can you
11 hear me okay?

12 THE COURT: I can.

13 MR. BRIEFEL: Good to see you.

14 THE COURT: (indiscernible)

15 MR. BRIEFEL: For the record -- yeah, good to see
16 you. For the record, Simon Briefel of Kirkland & Ellis,
17 counsel to the Debtors. So, as my colleague and Mr. Latona
18 mention, I will be handling the First Day Motions that we
19 filed in connection with the filing of the GK8 Debtors. But
20 before I do that, I just wanted to take care of a
21 housekeeping item. We filed, at Docket Number 1629, the
22 Declaration of Mr. Ferraro. It's our First Day Declaration
23 evidentiary support for our First Day relief and so, I
24 wanted to take a minute to ask that the Court enter the
25 Declaration into evidence.

1 THE COURT: Sure. Is there any -- are there any
2 objections to the Court admitting into evidence the Ferraro
3 Declaration ECF 1629 in support of the First Day Motions?
4 Hearing no objection, that's admitted into evidence.

5 MR. BRIEFEL: Thank you, Your Honor. So, we have
6 four items on the agenda, as it relates to the First Day
7 relief. The first one is the Joint Administration Motion
8 that was --

9 THE COURT: Granted.

10 MR. BRIEFEL: Great. Thank you, Your Honor. So,
11 I will move on to the second item on the agenda with respect
12 to the GK8 First Day relief is the Motion to Apply Certain
13 Orders that had been entered into Celsius cases since the
14 petition date in July. That Motion was filed at Docket
15 Number 1626, and we filed a Revised Proposed Order late last
16 night at Docket Number 1637. Your Honor, this Motion is
17 essentially a way for us to streamline the filing of the GK8
18 Debtors and the transition of the Debtors into Chapter 11.
19 We think that, had the Debtors been in bankruptcy at the
20 time the Orders had been entered, we think (indiscernible)
21 circumstances justifying the entry of such Orders with
22 respect to the GK8 Debtors. We also think that the relief
23 that's requested in the Motion is narrowly tailored, and we
24 only are asking the Court to extend these Orders that we
25 think are necessary pursuant to transition of the GK8

1 Debtors into a bankruptcy.

2 THE COURT: So, which Orders are you asking the
3 Court to apply, as well, to the new Debtors?

4 MR. BRIEFEL: I could go through each of them,
5 one-by-one if that would be helpful to the Court.

6 THE COURT: Well, let me -- how many are there?

7 MR. BRIEFEL: I believe it's 22 of them. That
8 includes First Day relief, the Retention Applications,
9 certain other Orders, such as the Bidding Procedures Order,
10 the Order Authorizing the Service of Certain Parties by
11 Emails, the Bar Debt Order and the likes.

12 THE COURT: Let me -- let me -- rather than go
13 through them individually at this stage, let me ask whether
14 -- first I'll ask the U.S. Trustee whether the U.S. Trustee
15 has any objection to the Court entering an Order recognizing
16 the -- and applying the list of Orders that the Debtor has
17 requested by applied to these three new Debtors.

18 MS. CORNELL: Good morning again, Your Honor.
19 Shara Cornell on behalf of the Office of the United States
20 Trustee. I can report that the Debtors and our office
21 worked up until quite late last night making sure that these
22 Orders worked for our office, and we have no objection at
23 this time.

24 THE COURT: Okay. Let me ask Committee's counsel,
25 as well, whether they have any objections.

1 MR. ZATZ: Your Honor, Andrew Zatz again, White &
2 Case, on behalf of the Unsecured Creditors Committee. We
3 have no objection to this Motion.

4 THE COURT: All right. Let me ask --

5 MS. CORNELL: Your Honor, I'm sorry. Just one
6 more point I just wanted to make. I'm sorry. Shara Cornell
7 again. With respect to the application of the Retention
8 Applications, I just wanted to note for the record that,
9 after our discussions with counsel last evening for the
10 Debtor, they will be filing their Supplemental Declarations
11 quite soon. So, thank you very much.

12 THE COURT: Thank you. Does anybody else want to
13 be heard on whether or not the Court should recognize and
14 apply these prior Orders to these new three -- to these
15 three new Debtors? Okay. I'll grant the Motion with
16 respect -- except with respect to the Retention Application.
17 Subject to the filing of the Supplemental Declaration,
18 assuming there are no objections from the U.S. Trustee when
19 that's submitted, then submit the Order relating to that.
20 So, strip out -- Mr. Briefel, strip out that Order from the
21 Order that I am prepared to enter promptly and then submit a
22 separate Order with respect to the retention -- the Kirkland
23 retention, once the Supplemental -- and if the Supplemental
24 Declaration is submitted to the U.S. Trustee and they
25 indicate they have no objection. Okay?

1 MR. BRIEFEL: That sounds good. Thank you, Your
2 Honor. We will do so.

3 THE COURT: Okay. Go ahead.

4 MR. BRIEFEL: So, that takes us to the third
5 Motion this morning, Your Honor. This is the Motion that we
6 filed to receive authorization for Mr. Christopher Ferraro
7 to act as a foreign representative on behalf of the Debtors.
8 It was filed at Docket Number 1628. As my colleague, Mr.
9 Latona, mentioned earlier, this Motion is critical in the
10 sale process that we have put together insofar as the
11 recognition of the Sale Order that we're hoping will be
12 entered soon in the U.S., needs to be recognized in Israel
13 and so, that Order will allow us to initiate that process,
14 file secondary proceedings in Israel and seek recognition of
15 the Sale Order.

16 THE COURT: Okay. So, this Motion is ECF Docket
17 Number 1628, and that Motion is granted, as well. As law is
18 developed in the United States, while it's typical for the
19 foreign representative -- that an Order be entered approving
20 the selection of the foreign representative, in fact, as the
21 law is developed, the corporation can select who they wish
22 to have as the foreign representative. Mr. Ferraro is the
23 acting CEO, the Chief Restructuring Officer, clearly, it's
24 appropriate. The only thing I would add is, obviously,
25 we're dealing with three Israeli entities that have filed

1 Chapter 11 in the United States. As I said at the start of
2 this hearing, they're affiliates of the existing Debtors and
3 clearly the Court -- their Petitions for these foreign
4 entities are properly filed here, it's obviously going to be
5 for the Israeli Court do decide whether or not to recognize
6 and enforce the Chapter 11 cases filed by these three
7 Israeli entities. But I will grant the Motion to appoint
8 Mr. Ferraro as the foreign representative for these
9 entities.

10 MR. BRIEFEL: Thank you very much, Your Honor.
11 So, the last item that I will be handling today is the Cash
12 Management Motion that was filed by the Debtors at Docket
13 Number 1627. Early this morning, we also filed a
14 Supplemental Cash Management Motion that was found at Docket
15 Number 1639, and I will get into the reason why in just a
16 little bit. I'm sure Your Honor read the papers, but in
17 short, the Cash Management system of the GK Debtors is
18 comprised of a single bank account that is held by Debtor,
19 GK8 Ltd. at the Tel Aviv branch of Bank Hapoalim. In the
20 ordinary course of (indiscernible) that account mainly
21 receives revenue generated by GK8's client, as well as
22 spending some non-Debtor Celsius network IL.

23 And so, I will mention briefly two points, Your
24 Honor, that I think are important. The first one, and
25 that's the reason we filed a Supplemental Cash Management

1 Motion is with respect to the 345(b) waiver. So, it was our
2 understanding that Bank Hapoalim, which is the bank, again,
3 with which the Debtors have their bank account, is an
4 authorized depository with the -- under the United States
5 Trustee guidelines. However, it came to our attention fully
6 in discussion with the United States Trustee's office that
7 it is possible that only the New York branch of that bank is
8 an authorized depository. And so, we're still looking into
9 whether or not the Israeli branch is, in fact, or not, also
10 on that list. And in the interim, as we were discussing
11 further with the United States Trustee and with Bank
12 Hapoalim, we thought it was appropriate to file that
13 Supplemental Motion to make clear that, to the extent that
14 bank account doesn't comply with Section 345(b) of the
15 Bankruptcy Code, we have an extension of 45 days to either
16 comply or seek further relief from the Court. We discussed
17 this with the Office of the United States Trustee, and I
18 understand that they're supportive of that compromise.

19 THE COURT: Ms. Cornell?

20 MS. CORNELL: Yes, Your Honor. We're working with
21 the Debtors and their professionals to come into compliance,
22 and we've agreed to the interim relief in the Order to allow
23 the Debtors a short opportunity to come into compliance
24 under 345.

25 THE COURT: All right.

1 MS. CORNELL: Thank you.

2 THE COURT: The Debtors may be sold by the time
3 this becomes (indiscernible).

4 MS. CORNELL: Maybe.

5 THE COURT: An issue that has to be resolved. So,
6 the Motion is granted, okay. Obviously, with --

7 MR. BRIEFEL: Thank you, Judge.

8 THE COURT: -- without resolving whether or not
9 only the New York branch is an approved depository, the 45-
10 day extension of time to comply and, if necessary, you can
11 bring on another Motion. Okay, so that's granted.

12 MR. BRIEFEL: Thank you, Your Honor. And with
13 that, I will cede the virtual podium to my colleague, Mr.
14 Chris Koenig, who will take you through the remaining
15 agenda.

16 THE COURT: Thanks Mr. Briefel.

17 MR. KOENIG: Good morning, Your Honor. For the
18 record, Chris Koenig, Kirkland & Ellis, for the Debtors. I
19 am presenting the last item on the agenda, which is the
20 uncontested Motion for the Debtors to Repay a Decentralized
21 Finance Loan. The Motion was filed at Docket Number 1360.
22 We filed a revised Proposed Order last night at Docket
23 Number 1636. The revised Proposed Order reflected an
24 agreement with the Committee to clarify, in the Order, that
25 we would only repay the loan to the extent that Your Honor

1 enter a ruling that the earned assets are property of the
2 estate because, of course, if it's not property of the
3 estate, we can't pay it until Your Honor makes that
4 determination.

5 So, I'm happy to take Your Honor through the
6 Motion in more detail, if you'd like. It's a fairly
7 straightforward Motion. There's a loan. We have more than
8 double the outstanding balance on the loan in collateral.
9 We'd like to get the collateral back and bring it back into
10 the estate where it can be kept for safekeeping. And given
11 the turmoil in the market lately, we believe that it's
12 particularly appropriate at this time to repay the loan and
13 receive the collateral back now.

14 THE COURT: Let me ask this, Mr. Koenig, obviously
15 I took under submission and didn't rule on whether the
16 earned assets are property of the estate. I'm working on
17 it. You're going to -- if this happens, if you repay the
18 loan, you will receive back collateral worth substantially
19 more than the loan you're repaying.

20 MR. KOENIG: Correct.

21 THE COURT: I'm just trying to think whether you
22 can -- awaiting a decision by me on whether the earned
23 assets are property of the estate, whether you could, in and
24 Order, provide, in effect, that the returned collateral will
25 be held in a separate account subject to the Court's

1 determination about whether the earned assets are property
2 of the estate. And therefore, not have to wait for me to
3 rule on the Motion, which I heard earlier this week.

4 MR. KOENIG: Your Honor, that's certainly fine
5 with us. We could set forth, in an Order, that the
6 collateral that is returned -- perhaps a way to say it is,
7 we'll have the same characteristics as the property that was
8 transferred whenever Your Honor ultimately decides that to
9 be. That would be fine with the Debtors. I don't want to
10 speak for the Committee, but I'll let whoever from White &
11 Case wants to speak, but hopefully that'll work for them, as
12 well. We have no objection to that.

13 THE COURT: Let me hear from Committee's counsel.

14 MR. ZATZ: Yes, Your Honor. Andrew Zatz from
15 White & Case on behalf of the Committee. We're supportive
16 of that.

17 THE COURT: Okay. Does anybody else want to be
18 heard on this issue? I mean, I this adequately protects any
19 accountholders of --- earned accountholders of Celsius,
20 assuring that they're going to be no worse off if the
21 Debtors repay and get back their collateral. Anybody want
22 to be heard? Mr. Dixon?

23 MR. DIXON: Simon Dixon, per se Creditor. Is it
24 possible just to know what the collateral is? What crypto
25 currency?

1 MR. KOENIG: It's in the -- it's in the -- Chris
2 Koenig. It's in the Motion. It's wrapped bitcoin and USDC.

3 MR. DIXON: Thank you.

4 THE COURT: Okay. Does anybody else want to be
5 heard? Okay. So, the Motion is granted subject to the
6 Debtor and the Committee working out an appropriate form of
7 Order that just will preserve the collateral that's coming
8 back in, subject to what the Court rules on the ownership
9 issue.

10 MR. KOENIG: Thank you, Your Honor. We'll confer
11 with the Committee; we'll submit a revised Proposed Order.

12 THE COURT: Okay. Thanks very much.

13 MR. KOENIG: Thank you, Your Honor. There's
14 nothing else on the agenda for today and on behalf of the
15 Debtor's professionals, and I'm sure the Committee's
16 professionals, as well, we just wanted to thank Your Honor
17 and Chambers for all the work, not only this week, but in
18 the last week, to get prepared for the hearing. I know that
19 there were a lot of hearings and I know all the work that
20 goes into it from Chamber's perspective. So, it's not lost
21 on the Debtors, their professionals or the business people.
22 We all greatly appreciate it.

23 THE COURT: Okay. Everybody's been working hard.
24 So, there's another hand raised. It's Bronge. I don't know
25 whether that's how you pronounce your last name. Go ahead.

1 I will recognize you now. Mr. Bronge, go ahead.

2 CLERK: You're unmuted, Mr. Bronge.

3 THE COURT: Now you're muted. Is there anything
4 you want to say now, Mr. Bronge? Now is the time to do it.

5 CLERK: You're unmuted, but we can't hear you.

6 All right. The Court has been trying to recognize Mr.
7 Bronge, Johan, J-O-H-A-N, Bronge, B-R-O-N-G-E, who has his
8 hand raised and is unmuted, but I'm not able to hear what
9 he's had to say. So, I think -- let me ask, is there
10 anybody else who wishes to be heard now? All right. We're
11 going to call this hearing to an end. I will -- with
12 respect to the sale, I'm obviously awaiting further
13 evidentiary showing and memoranda. They don't have to be
14 particularly long but need to address the issues I've raised
15 today. With that, we're all adjourned. Thank you very
16 much.

17 MR. KOENIG: Thank you, Your Honor.

18 (Whereupon these proceedings were concluded at
19 11:03 AM)

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I N D E X

RULINGS

Page Line

Motion Granted

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Motion Granted

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Motion Granted

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Motion Granted

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Motion Granted

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C E R T I F I C A T I O N

I, Sonya Ledanski Hyde, certified that the foregoing
transcript is a true and accurate record of the proceedings.



Sonya Ledanski Hyde

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Date: December 9, 2022